
The Parliament of the Commonwealth of Australia

**Review of the Rollout of the National
Broadband Network
First Report**

Joint Committee on the National Broadband Network

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Canberra

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Chair's Foreword

This is the First Report of the Joint Committee on the National Broadband Network, one of the largest committees in Australian parliamentary history, with currently 57 participating and full voting members. The sizeable membership of the committee demonstrates the commitment to better information communication technology (ICT) for all Australians amongst parliamentary colleagues, as well as a high degree of political interest in the National Broadband Network (NBN) more specifically.

There is a broad consensus in both the Parliament and the community on the importance of better ICT. A recent report by Deloitte Access Economics titled *The Connected Continent: How the internet is transforming the Australian economy* found that the direct contribution of the internet to the Australian economy “is set to increase by \$20 billion over the next five years from \$50 billion to roughly \$70 billion.” The report estimates that approximately 80 000 more Australians will be employed in areas directly related to the internet as a result.¹

How to deliver better ICT is a hotly contested issue and one of the political divides of the moment. With this in mind, this committee has worked hard to focus on its parliamentary oversight responsibility of the rollout of the NBN, and to emphasise that it is not a “clearing house” for policy differences. I thank all Members of the committee for respecting the role that we have as a committee.

The committee is guided by three basic documents in the performance of its oversight and scrutiny role of the NBN. These are the:

- Government commissioned *NBN Implementation Study*, dated 6 May 2010;
- *NBN Co Corporate Plan 2010-2013*, dated 17 December 2010; and
- Government's *Statement of Expectations* for NBN Co, dated 17 December 2010 (issued on behalf of the Government by the Shareholder Ministers, Senator the Hon Stephen Conroy, Minister for Broadband, Communications

¹ Deloitte Access Economics, *The Connected Continent: How the internet is transforming the Australian economy*, August 2011, p. 2.

and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation).

These key documents are available at:

www.nbnco.com.au/assets/documents/nbn-co-3-year-gbe-corporate-plan-final-17-dec-10.pdf

www.dbcde.gov.au/broadband/national_broadband_network/national_broadband_network_implementation_study

These documents need to be read alongside the ongoing work schedule for the NBN. To understand the time flow, the committee has included a diagram from the NBN Co Corporate Plan in Figure 2.7.

In its next review period, the committee intends to pursue a number of issues raised in these foundation documents, including when and how private equity will be engaged in the wholesale platform.

Many Australians are under the misconception that NBN Co is building a Government-owned monopoly to own and run the wholesale platform at taxpayers' expense, indefinitely, with no return to the Government on its very large initial capital expenditure. This is an incorrect assessment of what the final product will look like, and what the true return to the taxpayer really is. The end product will, more than likely, be a privately-owned and operated wholesale platform, with a return on revenue through engagement with retail providers as the platform is built, and then the opportunity for a significant private sale once the NBN is complete.

As a consequence, a very important question the committee will be pursuing is the question of when and how private equity and finance will be engaged in the wholesale platform, and at what financial return to Government, and ultimately taxpayers. The political debate is obscuring the fact that what is being built will be an asset on the financial books of the taxpayer. And as with all assets - everything from a house to a business investment - if it is built efficiently and effectively, and if private equity is engaged in the right way at the right time, an initial spend can lead to a much larger return in the future. With that in mind, this report flags that this committee will be exploring this question further: the committee will seek to satisfy itself about the Government's view of where the points of entry are for private investment alongside public investment, and to make sure maximum return on the Government's investment is secured on behalf of Australian taxpayers.

Recommendation 4 reflects this intent, by calling on the Government to publish a detailed statement outlining the productivity, jobs and competitive benefits of the impact of the NBN on competition (at the wholesale and retail levels) including

the impact of the Australian Competition and Consumer Commission's ruling to increase the number of points of interconnect for the NBN from 14 to 121.

In terms of performance scrutiny, if the committee is to properly provide parliamentary oversight of the NBN it needs to have at hand some agreed Key Performance Indicators (KPIs) and measures to examine. The committee was expecting to have received these by its mandated reporting date of 31 August 2011, so that it could report against them.

On 7 July 2011, the Shareholder Ministers wrote to the committee advising that these performance measures will be provided by mid September 2011. This timing is unfortunate because it means the committee is unable to report against NBN rollout performance in its First Report. The committee asks for this performance information to be provided as a matter of priority and in future, in a timely manner to allow full and more adequate parliamentary oversight of Australia's largest infrastructure project.

When the range of performance indicators are finalised by the Department of Broadband, Communications and the Digital Economy together with the NBN Co, the committee will be seeking a biannual report on these KPIs so that it can report against these agreed measurements. Some committee Members were keen for the committee to be given quarterly or monthly reports from NBN Co, arguing the committee is akin to a board of directors. The majority of committee Members, however, recognised that the committee is not a board of directors and that its parliamentary oversight role is broader; and its reporting requirements are twice yearly, as a consequence, performance measure reporting by NBN Co should be likewise.

Recommendation 1 therefore calls on the Government and the NBN Co to provide the committee with NBN rollout progress reports every six months, no later than three months before the committee is due to report to the Parliament.

In the absence of a formal performance reporting document, the committee has relied on the public hearing evidence of 5 July 2011 from NBN Co CEO, Mr Mike Quigley. At the hearing Mr Quigley reported to the committee that as at the end of June 2011, the NBN Co had passed some 14 256 Brownfields premises (more than the 13 000 forecast in the NBN Co Corporate Plan). Mr Quigley added that the interim satellite service was launched on 1 July 2011 which is expected to cover some 200 000 premises (more than the 165 000 forecast in the NBN Co Corporate Plan). However, progress with Greenfields sites has been delayed, due to the policy discussions and the need to 'bed-down' legislative amendments in the first half of 2011.²

2 Mr Mike Quigley, Chief Executive Officer, NBN Co, Transcript of evidence, Canberra, 5 July 2011, pp 2-3.

Based on Mr Quigley's statements, NBN Co has exceeded several performance targets as per the schedule on page 15 of the NBN Co Corporate Plan. However, as previously stated, the committee is very keen to have a broader set of KPIs and measures made available to it, to enable it to provide proper oversight of the NBN rollout, so that issues in the NBN Co Corporate Plan, the Government's Statement of Expectations, and related issues (i.e. Workforce issues) can receive further scrutiny.

A final theme to emerge in evidence received to date is the question of just how "NBN ready" Government and its agencies are. This was also a key theme of the recent report about the role and potential of the NBN by the House of Representatives Infrastructure and Communications Committee titled *Broadening the Debate* (tabled in the Parliament on 25 August 2011). This committee agrees with its Infrastructure and Communications committee colleagues on this consideration.

While the focus of many has been on a nine-year, complex engineering build of the NBN or on the size of the capital expenditure for the NBN, a number of critical, secondary policy considerations need to be prioritised by the Government for the NBN to deliver maximum value. Many of these were addressed in the Infrastructure and Communications Committee's report and will continue to be pursued by this committee. These include issues such as: Australian content and copyright law, individual privacy and national security, taxation administration, Government use of the internet, and timely and relevant data collection opportunities.

The committee's Resolution of Appointment requires it to report once only this year, by 31 August 2011. Due to the full range of issues, including the many mentioned above, the committee will again report to the Parliament before the end of the year. The second report will examine the agreed performance information pending from the Government, further work on private sector engagement for the NBN in both the wholesale and retail sectors, workforce issues, and the NBN-readiness of Government generally. As well, with several critical agreements due to be resolved in the coming months— such as the NBN Co agreement with Telstra which is expected to go to Telstra shareholders on 18 October— the committee can address these matters in more detail.

I thank the Secretariat for their work to date on what is a very challenging public policy oversight role. And once again, I thank all committee Members for, above all else, focusing on Australia's need for speed in the development of ICT over and above all other policy or political considerations.

Robert Oakeshott MP
Chair



Contents

Chair's Foreword	iii
Committee Membership	xi
Terms of Reference.....	xiii
List of Abbreviations	xv
Recommendations	xvii

REPORT

1 Reporting on the Rollout of the National Broadband Network	1
Introduction	1
Establishment and Role of the Committee	6
Background.....	6
Role.....	8
Previous Inquiries into the National Broadband Network	9
Reporting Timeframe	10
Review of National Broadband Network Rollout Progress.....	11
Background.....	11
Key Performance Indicators and Reporting Intervals	13
Objectives and Scope of the Review	15
Conduct of the Review	17
Report Outline	18
Concluding Comments	19

2	Rollout of the National Broadband Network.....	23
	Background	23
	Government's Statement of Expectations	33
	Funding the National Broadband Network.....	34
	Competition Issues	37
	Regional and Remote Access	43
	Background	43
	Broken Hill, New South Wales and Surrounding Region	45
	Julia Creek, Queensland	51
	Access to Government Services	52
	Concluding Comments	54

DISSENTING REPORT

	Dissenting Report by Coalition Members and Senators	59
	Background: Committee Provided with Insufficient Resources for Scrutiny	59
	Rollout Delays	62
	Confidentiality and Accountability	63
	NBN's Divergence from Government's Statement of Expectations	65
	NBN Co Commercial Arrangements with Telstra and Optus	67
	NBN Prices	68

APPENDICES

	Appendix A – Submissions and Exhibits	71
	Appendix B – Hearings and Witnesses	73
	Appendix C – Correspondence to Senator Xenophon	77
	Appendix D – Correspondence on National Broadband Network Data.....	79

FIGURES

Figure 2.1	National Broadband Network First Release Sites	26
Figure 2.2	High Level FTTP timeline from 30 June 2010 to 30 June 2013	27
Figure 2.3	High Level Wireless and Satellite Timeline from 30 June 2010 to 30 June 2013.....	27
Figure 2.4	Satellite Coverage under the National Broadband Network.....	28
Figure 2.5	National Broadband Network Wireless Footprint and Satellite Earth Stations (subject to changes based on the semi-distributed PoI model).....	29
Figure 2.6	Transit Backhaul Rings (subject to changes based on the semi-distributed PoI model).....	30
Figure 2.7	National Broadband Network Long-Term Timeline commencing in June 2010	32



Committee Membership

Chair Mr Robert Oakeshott MP

Deputy Chair Mrs Yvette D’Ath MP

Members	Mr Paul Fletcher MP	Senator Simon Birmingham
	Mr Luke Hartsuyker MP	Senator Carol Brown
	Mr Ed Husic MP	Senator Doug Cameron
	Hon Sussan Ley MP	Senator Mary Jo Fisher
	Ms Michelle Rowland MP	Senator Scott Ludlam
	Mr Mike Symon MP	Senator the Hon Ian Macdonald
	Hon Malcolm Turnbull MP	Senator the Hon Ursula Stephens

Participating Members

Senator the Hon Eric Abetz	Senator Steve Hutchins (from 24.3.2011 until 30.6.2011)
Senator Judith Adams	Senator the Hon David Johnston
Senator Chris Back	Senator Barnaby Joyce
Senator Guy Barnett (until 30.6.2011)	Senator Helen Kroger
Senator Cory Bernardi	Senator Gavin Marshall (from 24.3.2011)
Senator Catryna Bilyk (from 24.3.2011)	Senator the Hon Brett Mason
Senator Mark Bishop (from 24.3.2011)	Senator Anne McEwan (from 24.3.2011)
Senator the Hon Ronald Boswell	Senator Julian McGauran (until 30.6.2011)
Senator Sue Boyce	Senator the Hon Nick Minchin (until 30.6.2011)

Senator the Hon George Brandis SC	Senator Claire Moore (from 24.3.2011)
Senator David Bushby	Senator Fiona Nash
Senator Michaelia Cash	Mr Paul Neville MP (from 10.5.2011)
Senator the Hon Richard Colbeck	Senator Kerry O'Brien (from 24.3.2011 until 30.6.2011)
Senator the Hon Helen Coonan (until 22.8.2011)	Senator Stephen Parry
Senator Mathias Cormann	Senator Marise Payne
Senator Trish Crossin (from 24.3.2011)	Senator Helen Polley (from 24.3.2011)
Senator Alan Eggleston	Senator Louise Pratt (from 24.3.2011)
Senator the Hon John Faulkner (from 24.3.2011)	Senator the Hon Michael Ronaldson
Senator the Hon Alan Ferguson (until 30.6.2011)	Senator Scott Ryan
Senator Concetta Fierravanti-Wells	Hon Bruce Scott MP (from 26.5.2011)
Senator Mitch Fifield	Senator the Hon Nigel Scullion
Senator Michael Forshaw (from 24.3.2011 until 30.6.2011)	Senator Glenn Sterle (from 24.3.2011)
Senator Mark Furner (from 24.3.2011)	Senator the Hon Judith Troeth (until 30.6.2011)
Senator the Hon Bill Heffernan	Senator Russell Trood (until 30.6.2011)
Senator Gary Humphries	Senator John Williams
Senator Annette Hurley (from 24.3.2011 until 30.6.2011)	Senator Dana Wortley (from 24.3.2011 until 30.6.2011)
	Senator Nick Xenophon

Committee Secretariat

Committee Secretary	Mr Peter Stephens
Inquiry Secretary	Ms Stephanie Mikac
Principal Research Officer	Dr Bill Pender



Terms of Reference

The resolution of appointment establishing the Joint Committee on the National Broadband Network was passed by the House of Representatives on 1 March 2011 and by the Senate on 3 March 2011 and provides:

- (1) That a Joint Committee on the National Broadband Network be appointed to inquire into and report on the rollout of the National Broadband Network (NBN);
- (2) That every six months, commencing 31 August 2011, until the NBN is complete and operational, the committee provide progress reports to both Houses of Parliament and to shareholder Ministers on:
 - (a) The rollout of the NBN, including in relation to the Government's objective for NBN Co Limited (NBN Co) to:
 - (i) connect 93 per cent of Australian homes, schools and businesses with fibre-to-the premises technology providing broadband speeds of up to 100 megabits per second, with a minimum fibre coverage obligation of 90 per cent of Australian premises; and
 - (ii) service all remaining premises by a combination of next-generation fixed wireless and satellite technologies providing peak speeds of at least 12 megabits per second;
 - (b) The achievement of take-up targets (including premises passed and covered and services activated) as set out in NBN Co's Corporate Plan released on 20 December 2010 as revised from time to time;
 - (c) Network rollout performance including service levels and faults;
 - (d) The effectiveness of NBN Co in meeting its obligations as set out in its Stakeholder Charter;
 - (e) NBN Co's strategy for engaging with consumers and handling complaints;
 - (f) NBN Co's risk management processes; and
 - (g) Any other matter pertaining to the NBN rollout that the committee considers relevant.



List of Abbreviations

ACCC	Australian Competition and Consumer Commission
ACMA	Australian Communications and Media Authority
ACT	Australian Capital Territory
BOT	Build-Operate-Transfer
committee	Joint Committee on the National Broadband Network
CAC ACT	<i>Commonwealth Authorities and Companies Act 1997</i>
CAN	Customer Access Network
CEO	Chief Executive Officer
CSO	Community Service Obligations
CVC	Customer Virtual Circuit
Cwth	Commonwealth
DBCDE	Department of Broadband, Communications and the Digital Economy
EPOS	Electronic Point of Sale
Fibre Deployment Bill	Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011
FMA Act	<i>Financial Management and Accountability Act 1997</i>
GBE	Government Business Enterprise

HFC	Hybrid Fibre Coaxial
ISP	Internet Service Provider
KPI	Key Performance Indicator
FTTN	Fibre-to-the-Node
FTTP	Fibre-to-the-Premise
Mbps	Megabits per second
NBN Co	NBN Co Limited
NBN	National Broadband Network
NSW	New South Wales
PC	Productivity Commission
POAAL	Post Office Agents Association Limited
POI	Points of Interconnect
RBBP	Regional Backbone Blackspots Program
RDS Far West NSW	Regional Development Australia Far West New South Wales
RFDS	Royal Flying Doctor Service
RSP	Retail Service Provider
SAU	Special Access Undertaking
SoE	Government's Statement of Expectations
USO	Universal Service Obligations
WBA	Wholesale Broadband Agreement



Recommendations

1 Reporting on the Rollout of the National Broadband Network

Recommendation 1

The committee recommends that the NBN Co together with the Department of Broadband, Communications and the Digital Economy, commencing for the first quarter 2011-2012, provide a six-monthly report on the progress of the rollout of the National Broadband Network, using established Key Performance Indicators and performance measures, no later than three months before the committee is due to report to the Parliament.

2 Rollout of the National Broadband Network

Recommendation 2

The committee recommends that Government agencies take measures to ensure they are ready for the rollout of the National Broadband Network (NBN), prior to receiving and working with the NBN for service delivery.

Recommendation 3

The committee recommends that NBN Co Limited publish a detailed account of impacts on timing and cost of the National Broadband Network as a result of the time taken and resources used to complete the Binding Definitive Agreements between NBN Co and Telstra and NBN Co and Optus, and the decision to increase the number of Points of Interconnect from 14 to 121.

Recommendation 4

The committee recommends that the Minister for Broadband, Communications and the Digital Economy publish a detailed statement outlining the productivity, jobs and competitive benefits of:

- the overall rollout of the National Broadband Network for the cost-efficient provision of basic broadband infrastructure for all Australians;
- how competitive markets will operate at the wholesale and retail levels, with particular reference to the impact on small, existing internet service providers and other fibre deployment companies; and
- the impact on wholesale and retail competition of the increase of the Points of Interconnect from 14 to 121.

Recommendation 5

The committee recommends that NBN Co:

- publish timeframes for the rollout of National Broadband Network (NBN) services to regional and remote areas and communicate these to the areas to which they apply;
- investigate the impact of the transition to the NBN on currently available levels of service for satellite technology; and
- taking into consideration findings of this investigation, formulate contingency plans against potential reduction of capacity in regional and remote areas as a consequence of the NBN rollout, if required.

Reporting on the Rollout of the National Broadband Network

Introduction

- 1.1 On 7 April 2009, the Australian Government (the Government) announced the establishment of NBN Co. Limited (NBN Co) to 'design, build and operate a new super-fast National Broadband Network' (NBN). The NBN would service all premises across Australia and more broadly, would help drive national 'productivity, improve education and health service delivery and connect... cities and regional centres, enhancing ... Australia's international competitiveness.'¹
- 1.2 The Government intended that the NBN would be built through a joint partnership arrangement with the private sector with an investment of up to \$43 billion over an 8 year construction period. The Government's investment in the NBN would be funded through the 'Building Australia Fund' and the issuance of 'Aussie Infrastructure Bonds' to the general public.² The Government stated that it expected to divest its interest in NBN Co within five years of the completion and operation of the NBN.³

1 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

2 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009; NBN Co Limited, *Corporate Plan 2011-2013*, 17 December 2010, p. 12.

3 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

- 1.3 On 20 December 2010, the Government estimated the total capital expenditure of the NBN at \$35.9 billion with the Government expected to contribute \$27.5 billion in rollout equity.⁴
- 1.4 The Government's 2009 NBN policy and subsequent creation of NBN Co was intended as a micro economic reform measure for the Australian telecommunications sector with the required separation 'between the infrastructure provider and retail service provider.' In 2009, the Government stated that the structural separation nature of the reform would mean 'better and fairer infrastructure access for service providers, greater retail competition, and better services for families and businesses.'⁵
- 1.5 More specifically, the Government announced the NBN would:
- 'connect [with 90 per cent coverage] homes, schools and workplaces with Fibre-to-the-Premise (FTTP), providing broadband services ... in urban and regional towns with speeds of up to 100 Megabits per second (Mbps) - 100 times faster than those currently used by most people - extending to towns with a population of around 1,000 or more people'⁶
 - use next generation wireless and satellite technologies that will be able to deliver 12 Mbps or more to 'remote and regional areas
 - 'provide fibre optic transmission links connecting cities, major regional centres and rural towns
 - be Australia's first national wholesale-only, open access broadband network
 - be built and operated on a commercial basis by a company established at arm's length from Government involving private sector investment

4 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'Government Releases NBN Co Corporate Plan', *Joint Media Release*, 20 December 2010.

5 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

6 This was later increased to 93 per cent coverage following a recommendation of the July 2010 NBN Implementation Study. Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'Government releases NBN Co Corporate Plan', *Joint Media Release*, 20 December 2010.

- be expected to be rolled-out, simultaneously, in metropolitan, regional, and rural areas.⁷
- 1.6 The Government's announcement was made following advice it had sought and received from an expert panel. The expert panel recommended investment in 'optical fibre technology, supplemented by next generation wireless and satellite technologies.'⁸
- 1.7 In its review of the types of rollout for the proposed superfast broadband network, the Australian Competition and Consumer Commission (ACCC) advised the use of FTTP technology over FTTN technology.⁹
- 1.8 To initiate the NBN policy, the Government:
- commissioned an implementation study to determine operating arrangements, detailed network design, methods to attract investment and provide procurement opportunities for business
 - fast-tracked negotiations and arrangements to begin a FTTP and wireless network rollout in Tasmania (which would commence in July 2009)
 - commenced rollout of fibre optic transmission links between cities, major regional centres and rural towns to address 'blackspots'
 - took steps to 'progress legislative changes' to govern NBN Co and facilitate NBN rollout including in new (or Greenfield) developments (from 1 July 2010)
 - made an initial investment of \$4.7 billion in the NBN
 - commenced consultation on required amendment to the telecommunications regulatory regime.¹⁰
- 1.9 On 8 November 2010 as part of its obligations as a Government Business Enterprise (GBE), NBN Co delivered its Corporate Plan 2011-2013 to its

7 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

8 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

9 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

10 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

Shareholder Ministers.¹¹ The Corporate Plan was publicly released on 20 December 2010. The Corporate Plan details how NBN Co will proceed with the design, construction, delivery and operation of the NBN over the three year period from 1 July 2010 to 30 June 2013. In addition to legislative requirements for reporting by GBEs, the Corporate Plan was drafted in accordance with the Statement of Expectations (SoE) document released by the Government on 20 December 2010.

- 1.10 The Government's SoE provided an outline of the 'Government's policy implementation objectives for the NBN' as well as its 6 May 2010 response to the NBN Implementation Study.¹²
- 1.11 The NBN Implementation Study was undertaken over a seven month period and delivered to the Government on 5 March 2010. Broadly, the Implementation Study 'confirmed high-speed broadband for all Australians was achievable and could be built on a financially viable basis, with affordable prices for consumers.'¹³
- 1.12 The Implementation Study involved 'comprehensive stakeholder consultation with industry, vendors, consumer groups, the finance sector, and international experience and trends.' The Implementation Study made 84 recommendations in the areas of: technology, financing, ownership, policy framework and market structure.'¹⁴
- 1.13 The Government's response to the Implementation Study included consideration of a number of issues highlighted through consultation as well as factoring in three main events. These were the:
 - 'Financial Heads of Agreement between NBN Co and Telstra

11 The Shareholder Ministers are Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation.

12 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

13 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

14 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

- commitments to Regional Australia agreed with the Independent Members Mr Windsor MP and Mr Oakeshott MP following the 2010 Federal election
 - joint ACCC and NBN Co consultation process on the number and location of the Points of Interconnect (POI) to the NBN conducted in October and November 2010.¹⁵
- 1.14 Further, on 25 November 2010, the Government introduced NBN legislation into the Parliament and on 9 December 2010 issued its Fibre in New Developments policy statement in response to findings in the Implementation Study.¹⁶
- 1.15 The Government's changes to its expectations for the NBN in response to the Implementation Study included:
- increasing the FTTP coverage of the NBN by the end of the rollout period from 90 per cent of premises to 93 per cent of premises
 - requesting NBN Co to 'build the wireless network that will deliver fixed wireless services, delivering peak speeds of at least 12 Mbps to premises in the 94 to 97 percentile of premises.'
 - an expectation of NBN Co 'to maximise the use of existing infrastructure where it is efficient and economic to do so in the delivery of the fixed wireless network.'¹⁷
- 1.16 In March 2011, in response to ongoing concerns raised in the Parliament over the significant economic and time-intensive investment in the NBN, the Parliament established the Joint Committee on the National Broadband Network to enable the ongoing parliamentary scrutiny of all aspects relating to the rollout of the NBN.

15 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

16 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

17 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'NBN Rollout: Statement of Expectations', *Joint Media Release*, 20 December 2010.

Establishment and Role of the Committee

Background

- 1.17 A motion to establish a Joint Select Committee on Broadband to inquire into and report on the NBN was introduced by the Federal Opposition into the House of Representatives on 25 October 2010.
- 1.18 The motion would enable a 'Joint Select Committee on Broadband [to 'be appointed to inquire into and report on all aspects of the business of the NBN Co including its construction, operations, financing and any other matters related thereto.'
- 1.19 Establishment of the proposed joint select committee was intended to enable ongoing parliamentary scrutiny and oversight of the NBN and NBN Co. The proposed joint select committee would consist of four members from each major party represented in the Parliament with two crossbench members from the House of Representatives and the Senate respectively. On 25 November 2010, the motion was negated.
- 1.20 On 22 November 2010, to facilitate the passage of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) through the Senate, the Prime Minister agreed on a package of measures with Senator Xenophon and later confirmed this agreement through correspondence of 23 November 2010 which was tabled in the Senate (see Appendix C).
- 1.21 Through this agreement, the Government committed to establishing a Joint Committee on the National Broadband Network, which would report to the Parliament on the rollout of the NBN on a six-monthly basis until the completion of the project.
- 1.22 The proposed NBN committee would also be empowered to 'report against the final business plan, assess risk management processes and look at other matters the committee determines are relevant to its deliberations.' The composition of the proposed committee was to mirror that of the Joint Committee on Public Accounts and Audit with commencement from 1 July 2011, drawing on 'any relevant material from the Standing Committee on Infrastructure and Communications' (which is due to report to the Parliament by August 2011).
- 1.23 In addition, the proposed committee would be able to call witnesses including Members and Senators to appear before it in relation to 'performance of the NBN or other matters of local interest.'

- 1.24 The Prime Minister also confirmed that NBN Co, the ACCC, the Productivity Commission (PC) and the Australian Communications and Media Authority (ACMA) would be able to appear before or contribute advice to the committee. Further, the Prime Minister stated that the Government would write to the ACCC and the PC to advise of the arrangements. At this early stage, the committee has met with or taken evidence from each of these bodies, with the exception of the ACMA.
- 1.25 On 1 March 2011, the Government introduced a motion to establish the Joint Committee on the National Broadband Network. On debate of the motion in the House of Representatives, the opposition requested adequate resources to enable scrutiny of the NBN and also requested that the committee commence meeting without delay. These terms were subsequently agreed to by the Government.
- 1.26 The composition and general rules relevant for the committee's operations are provided for in its resolution of appointment including the appointment of an independent, non aligned member of the committee as the chair and the appointment of participating members. In reference to the committee's composition, its resolution of appointment provides for the appointment of 16 members to the committee and states:
- ...that the Committee consist of 16 members, 4 Members of the House of Representatives to be nominated by the Government Whip or Whips, 4 Members of the House of Representatives to be nominated by the Opposition Whip or Whips, and one non-aligned Member, 3 Senators to be nominated by the Leader of the Government in the Senate, 3 Senators to be nominated by the Leader of the Opposition in the Senate, and one Senator to be nominated by any minority group or groups or independent Senator or independent Senators
- 1.27 Prior to its first meeting, there were 51 participating members¹⁸ appointed to the committee. With the recent end to the terms of a number of Senators, and the appointment of two participating members from the House of Representatives, the number of participating members is 41, with total committee membership of 57.
- 1.28 With respect to the committee's resolution of appointment, while participating members 'may participate in hearings of evidence and deliberations of the Committee, and have all the rights of a member of the Committee, [they] may not vote on any questions before the Committee'.

18 The original 51 participating members were Senators.

Role

- 1.29 The Joint Committee on the National Broadband Network (the committee) is a new committee¹⁹ and was established by a resolution of appointment passed by the House of Representatives on 1 March 2011 and by the Senate on 3 March 2011.
- 1.30 The committee was appointed to inquire into and report on the rollout of the NBN which includes the Government's objectives for NBN Co to:
- 'connect 93 per cent of Australian homes, schools and businesses with fibre-to-the-premises technology providing broadband speeds of up to 100 Mbps, with a minimum fibre coverage obligation of 90 per cent of Australian premises;
 - service all remaining premises by a combination of next-generation fixed wireless and satellite technologies providing peak speeds of at least 12 Mbps;
 - The achievement of take-up targets (including premises passed and covered and services activated) as set out in NBN Co's Corporate Plan (released on 20 December 2010 as revised from time to time);
 - Network rollout performance including service levels and faults;
 - The effectiveness of NBN Co in meeting its obligations as set out in its Stakeholder Charter;
 - NBN Co's strategy for engaging with consumers and handling complaints; and
 - NBN Co's risk management processes.'²⁰
- 1.31 The committee is also empowered to inquire into and report on 'any other matter pertaining to the NBN rollout that the committee considers relevant.'
- 1.32 Prior to the release of its first report, the committee inquired into and reported on the Communications Legislation Amendment (Fibre Deployment) Bill 2011.²¹

19 The Joint Committee on the National Broadband Network is the first such committee to be established. Consecutive committees are expected to be established for the life of the National Broadband Network.

20 Resolution of Appointment for the Joint Committee on the National Broadband Network, The Parliament of the Commonwealth of Australia, House of Representatives *Votes and Proceedings* No. 28, 1 March 2011, pp 371-372, *Journals of the Senate*, No. 23, 3 March 2011, p. 673.

- 1.33 To date the committee has sought and received information about various aspects of the rollout of the NBN including the:
- fibre in new developments policy and related competition issues²²
 - the process that led to the awarding of major NBN construction contracts to Silcar and Fujitsu
 - broad scope of the Definitive Binding Agreements between NBN Co and Telstra and NBN Co and Optus
 - regional and remote issues relating to the installation, timeframe and use of the NBN
 - competition issues associated with operation of the NBN including:
 - ⇒ the decision based on advice from the ACCC to increase the number of POIs from 14 to 121 and
 - ⇒ uniform wholesale pricing of the NBN to Retail Service Providers (RSP).
 - technology innovation and the impact on the price of access to the NBN
 - skilled labour force recruitment, demand and supply.

Previous Inquiries into the National Broadband Network

- 1.34 The committee's first inquiry relating to the NBN was conducted in reference to the proposed Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011 (Fibre Deployment Bill). The committee reported on the proposed Bill on 5 July 2011. Through its inquiry, the committee reported on the proposed legislation, but also issues surrounding the Government's policy of Fibre in New Developments.
- 1.35 This inquiry followed an inquiry by the Senate Environment, Communications and the Arts Legislation Committee in 2010 on an earlier version of the same proposed legislation. The Senate committee presented its report to the Parliament in May 2010. The proposed Bill elapsed when

21 Joint Committee on the National Broadband Network, June 2011, *An Advisory Report on the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011*, Parliament of the Commonwealth of Australia.

22 The Joint Committee on the National Broadband Network was referred an Inquiry into the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011 and reported on the proposed legislation in June 2011.

the 42nd Parliament was prorogued and an updated version of the Bill presented early in the 43rd Parliament.

- 1.36 In addition to the committee's recent advisory report on the Fibre Deployment Bill, the NBN has been examined through a number of parliamentary inquiries and reviews including the: Senate Select Committee on the National Broadband Network, Senate Environment and Communications Legislation Committee (and its predecessor committee), and the Senate's Estimates process.
- 1.37 Since 2008 Senate committees have examined proposed NBN and NBN Co related legislation.²³
- 1.38 The inquiry into the Role and Potential of the NBN by the House of Representatives Standing Committee on Infrastructure and Communications was referred on 16 November 2010. The House Infrastructure and Communications Committee is expected to report to the Parliament by August 2011.

Reporting Timeframe

- 1.39 The committee's resolution of appointment provides that 'until the NBN is complete and operational', the committee is to report on a six monthly basis to both Houses of Parliament and its shareholder Ministers.²⁴ The committee's first reporting period ends on 31 August 2011.
- 1.40 The committee's first report includes the six month review period from its establishment in early March 2011 to its reporting date by end 31 August 2011.
- 1.41 Due to the delay in the reaching of a Definitive Binding Agreement between NBN Co and Telstra, a review of this matter will be included in a

23 This included examination of the Telecommunications Legislation Amendment (National Broadband Network) Bill 2008, Telecommunications Legislation Amendment (Communications Fund) Bill 2008, Telecommunications Legislation Amendment (National Broadband Network Measures No 1) Bill 2009, Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2009, Telecommunications Legislation Amendment (Fibre Deployment) Bill 2010, National Broadband Network Companies Bill 2010; and Telecommunications Legislation Amendment (National Broadband Network Measures - Access Arrangements) Bill 2010, and the Broadcasting Legislation Amendment (Digital Dividend and Other Measures) Bill 2011.

24 The NBN Shareholder Ministers are Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation.

future report. The timeframe for the completion of the Agreement between NBN Co and Telstra is expected in mid to late October 2011 pending a review by the ACCC and endorsement of the terms of the Agreement by Telstra shareholders.

- 1.42 The committee is intends to present its second report on the rollout of the NBN to the Parliament by the end of 2011. In so doing, the committee proposes to adjust its reporting timeframe to June/December instead of the August/February timetable that currently exists.

Review of National Broadband Network Rollout Progress

Background

- 1.43 The Government's SoE for NBN Co in terms of planning, reporting and performance management in line with its obligations as a GBE.
- 1.44 In reference to planning, reporting and performance management to the Government, NBN Co is expected to:
- regularly report (including an annual report and interim reports) to the Government to enable NBN Co performance to be measured
 - ⇒ the annual report is to include details regarding the network rollout performance and cost, achievement of service levels, faults, customer complaints, details of its progress towards meeting its coverage objectives and expenditure incurred in doing so, as well as other matters as advised by the Shareholder Ministers
 - in consultation with the Government, develop Key Performance Indicators (KPIs) to monitor progress against the NBN Co Corporate Plan and Business Plan
 - continue to report to the Parliament and its committees (with particular reference to this committee)
 - develop a comprehensive strategy (and regularly report against this strategy to Government) for engaging with individual consumers (including handling complaints) during the NBN rollout

- 'continue to conduct its planning and the execution of its strategy in a publicly transparent manner subject to any requirements for commercial confidentiality, and reflect this in its annual reporting.'²⁵
- 1.45 Early after its establishment, the committee asked NBN Co (and where relevant, the Government through DBCDE) to report regularly to the committee to enable it in turn to report to the Parliament and portfolio Ministers as required on the rollout of the NBN.
- 1.46 As the committee was aware that similar reporting information was to be prepared for the Government, NBN Co and the DBCDE were asked to provide a version of a report to the committee, so as not to duplicate reporting mechanisms. The committee proposed to consider the format and information contained within the first report and to comment on whether the material met its needs. To date, no such report has been provided.
- 1.47 In response to honouring the committee's request for regular reports against KPIs and NBN Co rollout of the NBN targets, the Shareholder Ministers wrote to the committee in early July 2011 to advise of reporting arrangements on the NBN rollout. (see Appendix D)
- 1.48 However, this report would not be made available to the committee before mid September 2011²⁶ which would be after the committee's required first reporting date to the Parliament.²⁷
- 1.49 The unsatisfactory consequence of this delay is that in this, the first report of the committee appointed to oversee the construction of the NBN, the committee is unable to provide Parliament with the most up to date information about the progress of the construction, the rate of connection not speak of the amount of capital drawn down and expended by the NBN Co.
- 1.50 The Government stated that the report could not be made available to the committee earlier as more time was required to:
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25 Australian Government, *Statement of Expectations*, 20 December 2010, p. 11.

26 Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation, Correspondence to the Joint Committee on the National Broadband Network, dated 7 July 2011.

27 The committee's resolution of appointment requires the committee to report to the Parliament and the Shareholder Ministers by 31 August 2011. The Parliament of the Commonwealth of Australia, House of Representatives *Votes and Proceedings* No. 28, 1 March 2011, pp 371-372, *Journals of the Senate*, No. 23, 3 March 2011, p. 673.

...enable NBN Co management to prepare a report of satisfactory quality, for the NBN Co Board to perform appropriate due diligence in reviewing the content of the report, and for initial Government consideration of the report. This timing would also ensure that the Government is able to provide the Committee with relevant information surrounding recent developments as part of its first report.²⁸

Key Performance Indicators and Reporting Intervals

NBN Co Targets

- 1.51 The NBN Co Corporate Plan lists a ‘number of specific high level deployment targets to be achieved by 30 June 2013.’²⁹
- 1.52 These targets are stated as incremental year-on-year figures for June 2011, 2012 and 2013 for two broad NBN rollout categories. These categories are:
- premises Passed or Covered
 - premises with Active Service.³⁰
- 1.53 These two categories are further reported against in three classifications for type of service which are:
- FTTP
 - satellite first release
 - wireless.³¹
- 1.54 The NBN Co Corporate Plan states that the targets are indicative only as the NBN rollout is dependent on:
- ‘the availability of exchange facilities for the location of the semi-distributed POIs
 - negotiations yet to finalise on commercially attractive terms the procurement of Greenfields Build-Operate-Transfer (BOT)

28 Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation, Correspondence to the Joint Committee on the National Broadband Network, dated 7 July 2011.

29 NBN Co, *Corporate Plan 2011-2013*, 17 December 2010, p. 15.

30 NBN Co, *Corporate Plan 2011-2013*, 17 December 2010, p. 15.

31 NBN Co, *Corporate Plan 2011-2013*, 17 December 2010, p. 15.

- securing contracts with suppliers and construction contractors on competitive terms and conditions.³²
- 1.55 The FTTP service is reported on in Brownfields, Greenfields build and Greenfields BOT.
- 1.56 At the committee's 5 July 2011 public hearing, in reference to the targets outlined in its Corporate Plan, NBN Co provided figures on premises passed in Brownfields (existing premises) by end June 2011, number of premises served through the interim satellite service by end June 2011 and Greenfields lots passed by end June 2011. The NBN Co provided information that it had exceeded its targets for Brownfields and satellite for end June 2011, but due to the ongoing policy debate on Greenfields, there had been delay in this area. The NBN Co stated:

... [In] our Corporate Plan that we submitted last December, we had projected that we would have passed 13,000 Brownfields premises by the end of June... . I am pleased to report that, as of the end of June, we have passed 14 256 premises. We had also anticipated launching our interim satellite service by 30 June. We did so on 1 July. We had anticipated that the interim satellite service would cover 165 000 eligible premises; that was our estimate at the time. Our latest estimate is, in fact, somewhat more than that: we expect that it will be above 200,000 eligible premises that that interim satellite service will cover. We had also anticipated prior to December of last year that there would be some 45 000 Greenfields lots that would need to be passed, but, as everybody in the room probably knows, there has been ongoing policy debate about the Greenfields – the new developments. In fact, that policy has been particularly around the responsibility of Telstra and NBN Co, and it has taken some time to resolve that.³³

Development of Key Performance Indicators

- 1.57 At the committee's 16 May 2011 public hearing, NBN Co stated that it was reviewing 'a number of KPIs with the NBN Co Board.'³⁴
- 1.58 Later at the committee's 5 July 2011 public hearing, the NBN Co indicated that it had been working closely with the Government to develop KPIs. The NBN Co stated that once this process was complete, that the

32 NBN Co, *Corporate Plan 2011-2013*, 17 December 2010, p. 16.

33 Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 5 July 2011, pp 2 and 3; NBN Co, Submission 2.1, pp 1-2.

34 Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 15 May 2011, p. 4.

Government would consult with the committee to determine which KPIs it would seek figures on. The NBN Co stated:

We have been working closely with the Government on a range of KPIs. My understanding is that the instructions to us from the Government are that when that is established the Government will liaise with the committee to find which of those KPIs you would be interested in seeing.³⁵

- 1.59 In its letter of 7 July 2011 in reference to reporting arrangements for the rollout of the NBN, the Government stated that NBN Co is in the process of finalising ‘an appropriate reporting framework including KPIs on NBN Co’s activities which can be used as the basis for reports to both the Government and the committee.’³⁶

Objectives and Scope of the Review

- 1.60 In undertaking its first six-monthly review of the rollout of the NBN, the committee primarily sought relevant information from NBN Co, the DBCDE and the Department of Finance and Deregulation. The committee also received submissions from interested individuals and organisations.
- 1.61 In addition, as the Government’s SoE provides that the timeframe for the introduction of wireless and satellite services will be brought forward,³⁷ the committee undertook to receive evidence from a regional area. The committee selected Broken Hill to enable it to receive evidence on regional issues pertaining to the rollout of the NBN as Broken Hill is yet to receive NBN services, but is a site through which the Regional Backbone Blackspots network³⁸ runs.

35 Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 5 July 2011, p. 4.

36 Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy and Senator the Hon Penny Wong, Minister for Finance and Deregulation, Correspondence to the Joint Committee on the National Broadband Network, dated 7 July 2011.

37 Bringing forward the timeframe for wireless and next generation satellite services for regional Australia was included under the 7 September 2010 *Commitment to Regional Australia Agreement* reached between the Government and the Independent Members Mr Tony Winsor MP, Member for New England and Mr Robert Oakeshott MP, Member for Lynne, Australian Government, *Statement of Expectations*, October 2010, Minister for Broadband, Communications and the Digital Economy and the Minister for Finance and Deregulation.

38 The Regional Backbone Blackspots Program is outlined in Chapter 2.

- 1.62 During the course of its review, a Binding Definitive Agreement was signed between NBN Co and Telstra with three main components. These are:
- 'it grants NBN Co access to Telstra facilities and infrastructure over a minimum period of 35 years, ensuring that the fibre optic component of the National Broadband Network, serving 93 per cent of premises, can be rolled out efficiently and avoids duplicating infrastructure
 - it provides for the progressive disconnection of Telstra's copper and Hybrid Fibre Coaxial (HFC) customers (other than HFC pay-TV customers) and NBN Co will be Telstra's preferred fixed-line network
 - in addition, NBN Co and Telstra have negotiated interim arrangements for immediate access to Telstra infrastructure.'³⁹
- 1.63 The agreement requires examination by the ACCC and ratification by Telstra shareholders before it comes into force.
- 1.64 The committee intends to continue its examination of the Telstra Agreement in more detail once the Agreement has been completed.
- 1.65 As part of the review, the committee also intended to examine KPIs and performance measures relevant to the rollout and subsequent initial operation of the NBN. However, the committee is still awaiting receipt of this statistical information and so it will not be able to report on the performance of the rollout of the NBN as required under its resolution of appointment.
- 1.66 In addition, the committee has reported on the timeliness and inquiry challenges presented to the committee during its first review period.
- 1.67 The committee has also included within the scope of its first review, important regional issues in relation to the rollout of the NBN as raised by the Broken Hill and surrounding communities and Julia Creek. These issues include technology innovation to enable enhanced remote service delivery and improved opportunities for economic development.
- 1.68 Competition issues were also raised as part of the committee's Inquiry into the Telecommunications Legislation Amendment (Fibre Deployment) Bill 2011. Potential competition generated by the rollout and operation of the NBN and the impact on existing competition in the telecommunications market was raised as an issue during the review. Competition issues have

39 NBN Co Ltd, 'NBN Co and Telstra Sign Binding Definitive Agreements', *Media Release*, 23 June 2011.

been prevalent throughout this review and will continue to be examined in the committee's next reporting period.

Conduct of the Review

- 1.69 The committee issued a media release on 9 May 2011 announcing its establishment and role in the ongoing six-monthly review of the rollout of the NBN. The committee also wrote to inform and invite individuals and organisations to participate in the review by providing submissions or appearing before the committee at public hearing. The invitation to receive submissions closed on 8 August 2011.
- 1.70 The 21 submissions and 11 exhibits received in relation to the review are listed at Appendix A.
- 1.71 The committee held four public hearings as listed. Each of the public hearings held were announced and publicised through the issue of media releases.

Date	Venue and Place
16 May 2011	Parliament House, Sydney
5 July 2011	Parliament House, Canberra
27 July 2011	Trades Hall, Broken Hill
28 July 2011	Parliament House, Melbourne

- 1.72 The committee also conducted two infrastructure inspections in Broken Hill and Melbourne on 27 and 28 July 2011. Sites visited by the committee are listed.

Date and place	Infrastructure inspection sites
27 July 2011 Broken Hill, NSW	<ul style="list-style-type: none"> <li data-bbox="756 517 1356 640">■ Regional Backbone Blackspots Program - Controlled Environment Vault facility <li data-bbox="756 667 1356 741">■ Backbone Point of Interconnect Site, corner of Blende and Chloride Streets <li data-bbox="756 768 1174 804">■ Broken Hill Film Studio
28 July 2011 Melbourne, Vic	<ul style="list-style-type: none"> <li data-bbox="756 837 1283 911">■ Brunswick Fibre Access Node (previously a Telstra Exchange) <li data-bbox="756 938 1331 1012">■ Pit and Fibre Distribution Hub and lead-in to premises

- 1.73 Witnesses who appeared before the committee and gave evidence to the review are listed at Appendix B. Transcripts of the public hearings are available at www.aph.gov.au/jcnbn.

Report Outline

- 1.74 Chapter 1 outlines the main areas of review of the progress of the rollout of the NBN including: reporting intervals and key performance measures and indicators. Discussion on the methods of obtaining timely and relevant information is included.
- 1.75 Chapter 2 provides an overview of the components of the NBN and includes discussion about competition issues and issues associated with the benefits and challenges of access to the NBN in regional and remote areas.

Concluding Comments

Review of National Broadband Rollout Progress

- 1.76 The Government's Statement of Expectations (SoE) provides clarity and guidance to the NBN Co Limited (NBN Co) on how it should proceed with and report on rollout of the National Broadband Network (NBN). In particular, in regard to reporting on NBN targets and Key Performance Indicators (KPIs), the committee expected the KPIs and performance measures to be resolved between the NBN Co, the Department of Broadband, Communications and the Digital Economy (DBCDE) and the committee as a matter of priority.
- 1.77 Recent correspondence from the Shareholder Ministers has informed the committee that it will not receive its first report on progress of the rollout of the NBN until mid September 2011.
- 1.78 At the earliest, the DBCDE and the NBN Co were aware of the committee's terms of reference and its August reporting date at its establishment in March 2011 and could have anticipated the committee's requirements in terms of reporting on NBN data. In addition, the committee made repeated requests for data on NBN rollout KPIs and performance measures.
- 1.79 As the committee has not received a report on the relevant NBN rollout KPIs and performance measures, the committee cannot report on this data as required under its resolution of appointment.
- 1.80 In terms of the timing of receiving NBN rollout performance information and KPIs, the committee will seek an amendment to its resolution of appointment to allow it to report to the Parliament biannually in June and December. This would allow for the NBN Co and the DBCDE to prepare reports for the committee in line with more streamlined reporting timeframes and current public sector practice. This timeframe would also enable more thorough examination of NBN rollout issues by the committee. The committee proposes to write to portfolio Ministers to obtain their concurrence to the new arrangements.
- 1.81 The committee would also see a benefit in receiving NBN rollout performance information on a quarterly basis, in line with its expected June/December reporting timetable, so that short-term and long-term trends may be easily identified, examined and possibly benchmarked.

Telstra Agreement

- 1.82 The committee notes that there have been delays in the negotiating of the Definitive Binding Agreement between NBN Co and Telstra, and that the Binding Definitive Agreement between NBN Co and Optus required time and effort to reach and was not factored into the current NBN Co Corporate Plan.
- 1.83 The committee understands the Binding Definitive Agreement between NBN Co and Telstra requires review by the ACCC and endorsement by Telstra shareholders, and notes that this should be finalised by mid to end October 2011.
- 1.84 The committee is interested in having the opportunity to examine in more detail, the Binding Definitive Agreement between NBN Co and Telstra.

Timeframe for Receiving Answers to Questions Taken on Notice

- 1.85 Since its establishment, the committee has held five public hearings covering two inquiries. Given the high importance placed on the matters under consideration by the committee and the tight reporting timeframes, the committee is reliant on the evidence it receives from the NBN Co and the DBCDE. This includes formal evidence received by the committee at hearing, through written submissions and in answers to questions taken on notice.
- 1.86 On a number of occasions during the committee's hearings, witnesses from the NBN Co and the DBCDE have taken questions on notice and been provided with a timeframe in which the answers should be provided to the committee.
- 1.87 The majority of answers to questions taken on notice were received by the committee well outside of the notified timeframe. In addition to appearing before this committee, NBN Co and the DBCDE are required to appear before Estimates Committees. The committee acknowledges the timeframes for preparing responses to questions taken on notice for this committee and for Estimates hearings has created an additional reporting burden for these agencies.
- 1.88 However, the committee is of the view that adherence to timeframes for receiving answers to questions on notice allows the committee to include relevant formal evidence to be included in the committee's report deliberations and often provides useful evidence, further informing the committee's findings and recommendations. This is especially important in reference to the committee's ongoing reviews in consideration of the significant investment in the NBN project.

- 1.89 The committee strongly urges NBN Co and the DBCDE to give their responses to answers to questions taken on notice greater priority. This will assist the committee to undertake its role as intended by the Parliament.

Commercial-in-Confidence

- 1.90 In addition, the NBN Co has on a number of occasions not provided information to the committee or failed to answer questions on commercial-in-confidence grounds, limiting the committee's scope in its inquiry of matters that is within its remit.
- 1.91 The Government's SoE encourages NBN Co to continue to conduct its planning and execution of its strategy in a publicly transparent manner, subject to commercial-in-confidence requirements.
- 1.92 However, the committee draws to the attention of the NBN Co the Senate resolution of 30 October 2003 which requires any claim for commercial-in-confidence to be made by a Minister accompanied by a ministerial statement of the basis of the claim, including a statement of the commercial harm which may result from the disclosure of the information.
- 1.93 In reference to a statutory authority, the Senate resolution states if a committee is satisfied that a statutory authority has such a degree of independence from ministerial direction that it would be inappropriate to have a minister make the claim the committee may receive the claim from officers of the authority.
- 1.94 The committee notes that there are avenues available to deal with commercial-in-confidence material including taking evidence 'in-camera' - although the committee is generally unable to use such material in its public reports.
- 1.95 The committee will continue to monitor claims of commercial-in-confidence and may seek to press the issue if it believes its mandate from the Parliament and the Government is being unduly impeded by such claims without satisfactory explanation.

Recommendation 1

- 1.96 **The committee recommends that the NBN Co together with the Department of Broadband, Communications and the Digital Economy, commencing for the first quarter 2011-2012, provide a six-monthly report on the progress of the rollout of the National Broadband Network, using established Key Performance Indicators and performance measures, no later than three months before the committee is due to report to the Parliament.**

Rollout of the National Broadband Network

Background

2.1 The Government's primary objectives for the National Broadband Network (NBN) are that it will:

- 'deliver significant improvement in broadband service quality to all Australians,
- address the lack of high-speed broadband in Australia, particularly outside of metropolitan areas
- reshape the telecommunications sector.'¹

2.2 The key features of the NBN are that it:

- connect 93 per cent of homes, schools and workplaces (premises) with optical fibre – fibre to the premises (FTTP) – providing broadband services to people living in urban and regional towns with speeds of 100 megabits per second (Mbps)
- use next generation wireless and satellite technologies to deliver 12 Mbps or more to the remaining 7 per cent of premises in remote and regional parts of Australia
- provide fibre optic transmission links between cities, major regional centres and rural towns
- provide a national wholesale-only, open access broadband network.

¹ Australian Government, *Statement of Expectations*, 20 December 2010, p. 1.

- 2.3 The NBN's Corporate Plan states that it will be built and operated by NBN Co Limited (NBN Co) on a commercial basis and at arm's length from Government using public and private investment. The NBN is expected to be rolled out simultaneously in metropolitan, regional and rural areas.²
- 2.4 It is the Government's expectation that 93 per cent of premises will be accessed by FTTP; with four per cent accessed by fixed wireless technology; and the final three per cent will be accessed through next generation satellite technology.³
- 2.5 The NBN has been planned as a monopoly national fixed-line network from the Points of Interconnect (POIs) to premises. The NBN Co will be able to cross subsidise from its national revenue flows to offer a common entry level wholesale broadband price structure for all premises across all technologies.⁴
- 2.6 Fibre optic technology has been selected over alternative technologies because of the superior performance of a fibre network over a copper network, wireless and Hybrid Fibre Coaxial (HFC). The NBN will become competitive with ADSL technology at entry level (12Mbps), will be competitive against wireless technology at the same level, and will provide a superior and more reliable performance over distance. HFC is competitive with the NBN at entry level within the existing HFC network footprint and as the NBN Co Corporate Plan notes the HFC networks are currently upgraded in Melbourne up to 100 Mbps and have the potential with node-splitting to be upgraded to 240 Mbps.⁵
- 2.7 The FTTP technology has been chosen over Fibre to the Node (FTTN) technology as it is considered by the Government to be superior because of its greater long-term benefit, albeit at a greater short-term cost. In evidence before the committee, Mr Mike Quigley, Chief Executive Officer of NBN Co stated:

Some countries are choosing to do fibre to the node or, increasingly, not just fibre to the node but fibre to the kerb or fibre to the cabinet, pushing the fibre even further out. In the end, it is a long-term, short-term trade-off, you would have to say. There are some pluses to a fibre-to-the-node rollout. You could do a fibre-to-the-node rollout to a part of Australia – certainly not 93 per cent. You could not use fibre to the node to get 93 per cent of premises

2 NBN Co, *Corporate Plan 2011–2013*, 17 December 2010, p. 12.

3 Australian Government, *Statement of Expectations*, 20 December 2010.

4 Australian Government, *Statement of Expectations*, 20 December 2010.

5 NBN Co, *Corporate Plan 2011–2013*, 17 December 2010, p. 42.

with a high-speed service. You could go only so far and then you would start to run into the problems you have with ADSL and ADSL2, unless you just keep pushing that fibre further and further, which will make the copper loops shorter and shorter, so there is a cost-benefit trade-off there. But, remember, as you push the fibre further and deeper and make the copper loops shorter and deeper with a fibre to the node or fibre to the cabinet, you need to put in more and more and more cabinets. Each one of those cabinets needs to be powered and active, and then they will have the same issues that we have talked about, such as of water ingress. So there comes a point at which you say this still is not the end architecture. Almost everybody in the world says that the right end architecture is fibre to the premise.⁶

- 2.8 Moreover, from the perspective of Government policy, FTTP allows for the decommissioning of the copper network, laying the groundwork for the structural separation of Telstra and providing a level playing field for competition at the retail level. In evidence before the committee, Mr Peter Harris, Secretary of the Department of Broadband, Communications, and the Digital Economy (DBCDE) stated:

The Government started out with fibre to the node and ran a tender process for that purpose. For whatever reason the Telstra proposition to that failed and the independent panel that assessed the bids said there was no value for money. And probably the most important aspect for me when I came in and looked at this is that the ACCC said that this investment in fibre to the node was unlikely to necessarily deliver the kind of benefit that the Government perceived of it and that a substantial part of it would effectively be wasted, in terms of a competition outcome. So the Government is there, again, with an attempt to do fibre to the node that was previously unsuccessful and it is required to either do nothing or move up to fibre to the premises. It chose to move up to fibre to the premises...⁷

- 2.9 The rollout of the NBN began with the development of three pre-release sites in Tasmania, at Midway Point, Smithton and Scottsdale. In Tasmania approximately 4000 premises have been passed and of these 2000 have

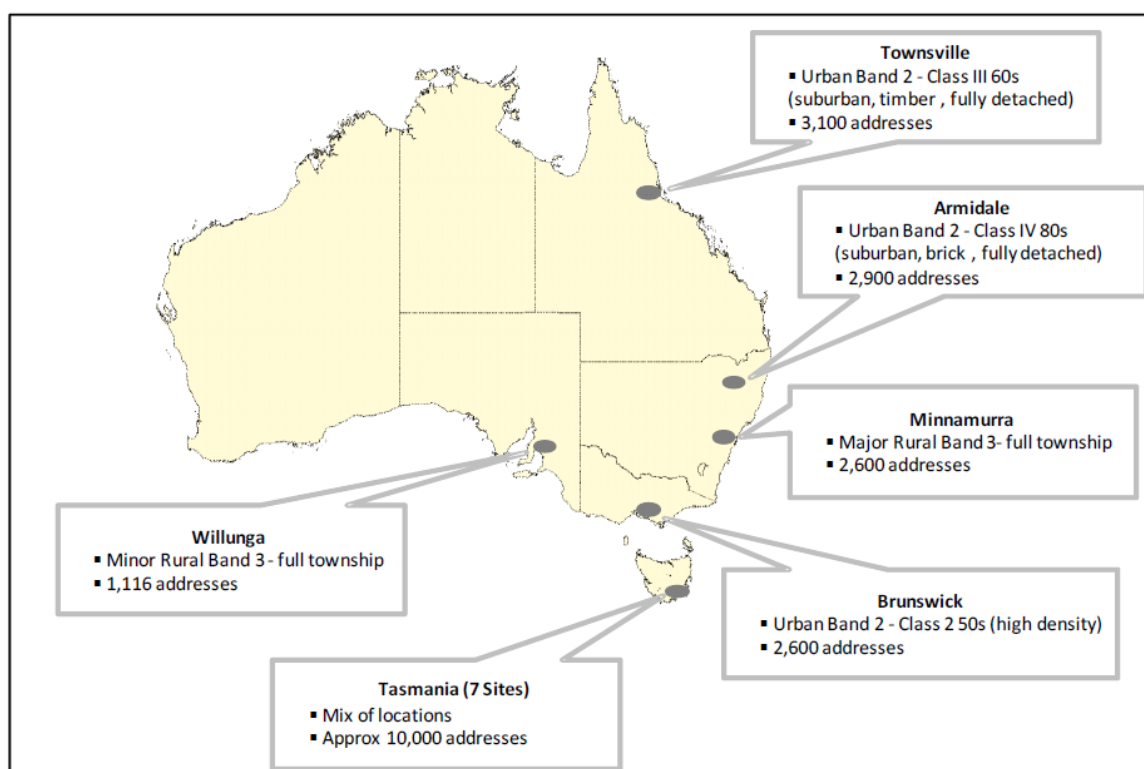
6 Mr Mike Quigley, Chief Executive Officer, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, pp 24-25.

7 Mr Peter Harris, Secretary, Department of Broadband, Communications and the Digital Economy (DBCDE), Transcript of Evidence, Sydney, 16 May 2011, p. 39.

consented to have a lead-in connected through their home with 723 services having been ordered or which 712 have been activated.⁸

- 2.10 Stage two of the NBN rollout in Tasmania, announced on 28 April 2011, will involve the rollout of the NBN First Release sites at seven further sites – Deloraine, Kingston Beach, George Town, Sorell, South Hobart, St Helens and Triabunna. In addition, there are five First Release sites on the mainland – Armidale, Willunga, Brunswick, Townsville and Kiama (see Figure 3.1).⁹

Figure 2.1 National Broadband Network First Release Sites



Source NBN Co Corporate Plan 2011–2013, p. 68.

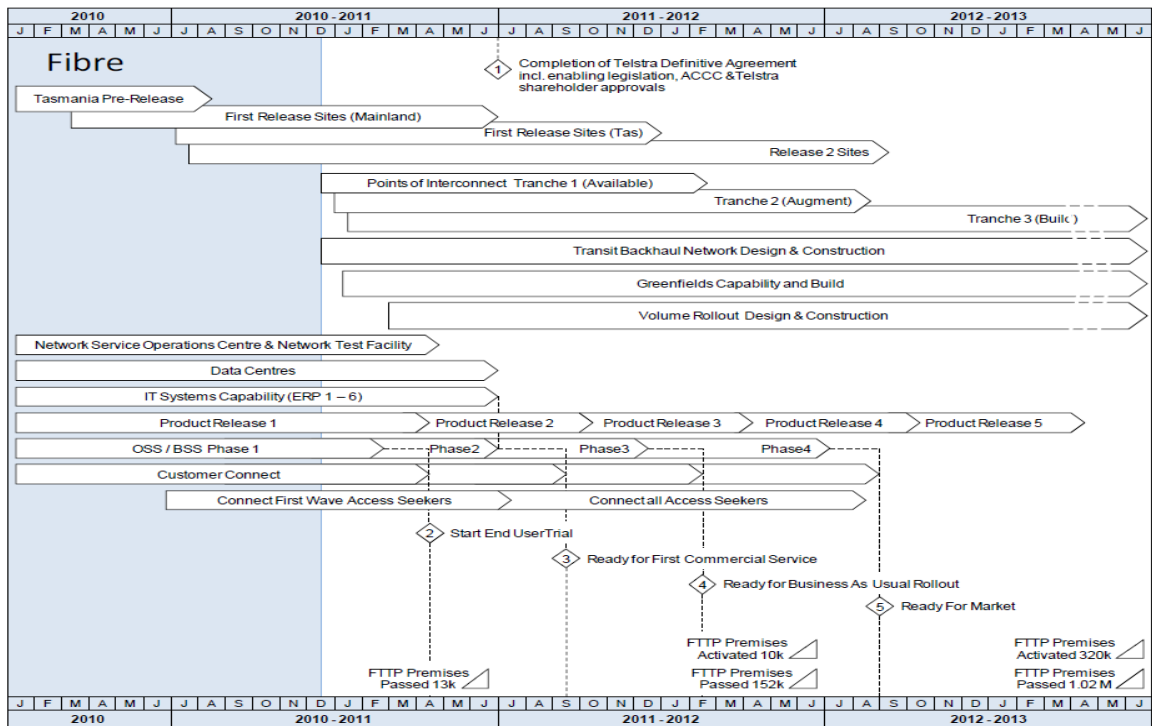
- 2.11 The First Release Sites have been selected as part of NBN Co's live trial of its network design and construction methods. They will test, cost and design assumptions for the network under a broad range of conditions.¹⁰
- 2.12 Figures 3.2 and 3.3 illustrate the proposed timetable for rollout during the life of the NBN Co Corporate Plan 2011-2013, of fibre, wireless and satellite services.

⁸ Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 4.

⁹ Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 4.

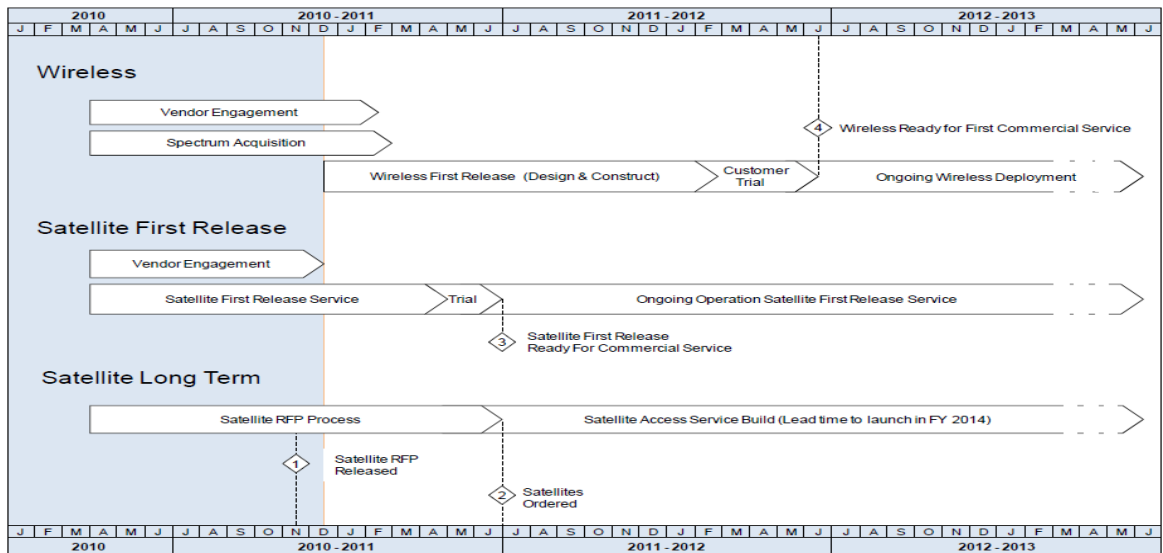
¹⁰ NBN Co, *Corporate Plan 2011–2013*, 17 December 2010, p. 68.

Figure 2.2 High Level FTTP timeline from 30 June 2010 to 30 June 2013



Source NBN Co Corporate Plan 2011-2013, p. 19.

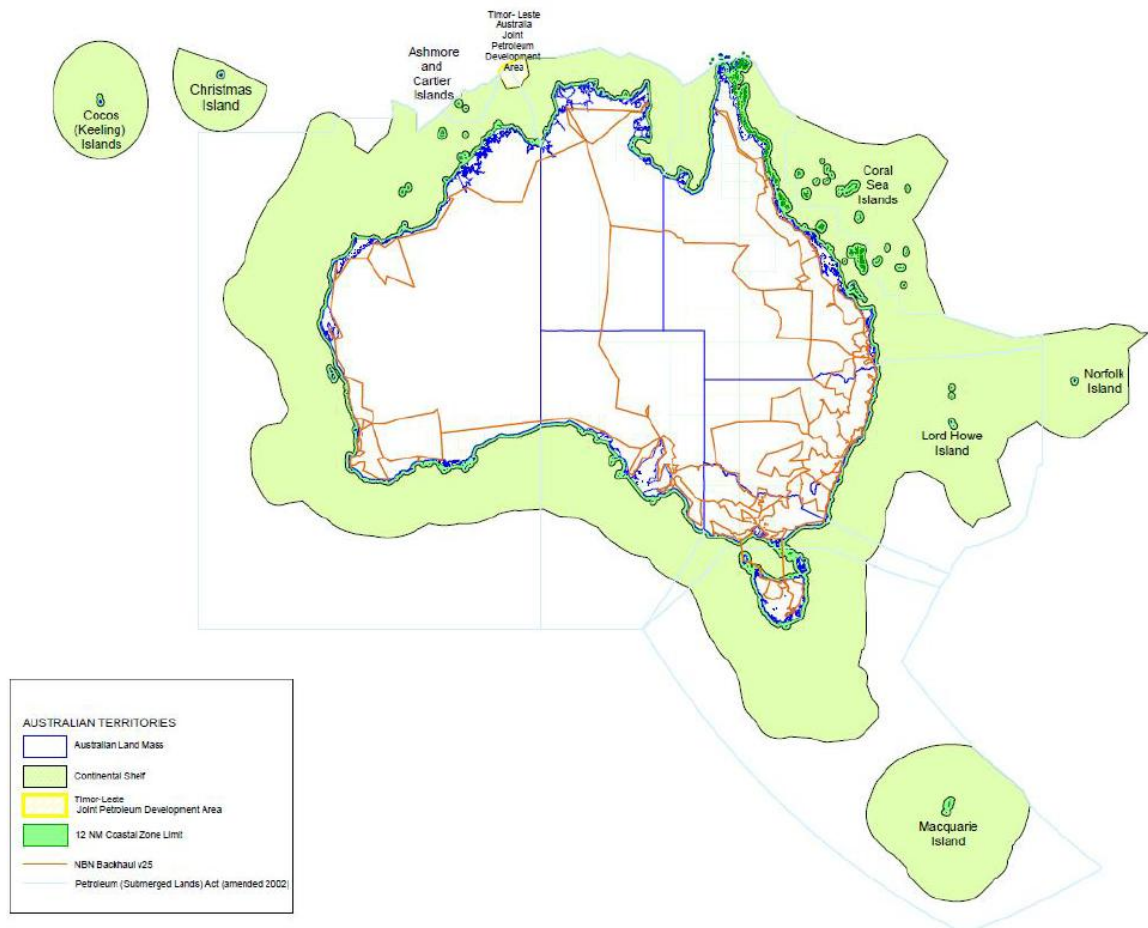
Figure 2.3 High Level Wireless and Satellite Timeline from 30 June 2010 to 30 June 2013



Source NBN Co Corporate Plan 2011-2013, p. 21.

2.13 Figure 3.4 shows the expected range of satellite coverage under the NBN and Figure 3.5 shows the expected wireless footprint and proposed satellite earth stations.

Figure 2.4 Satellite Coverage under the National Broadband Network



Source *NBN Co Corporate Plan 2011–2013, p. 72.*

2.14 The NBN Co has also reached agreement on nine of the nineteen proposed Second Release Sites, including extensions to the First Release Sites at Kiama, Townsville and Armidale, and new sites at Springfield Lakes, Toowoomba, inner northern Brisbane, Riverstone in Western Sydney, Coffs Harbour and Gungahlin, Australian Capital Territory (ACT).¹¹

¹¹ Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 5 July 2011, p. 1.

Figure 2.5 National Broadband Network Wireless Footprint and Satellite Earth Stations (subject to changes based on the semi-distributed PoI model)

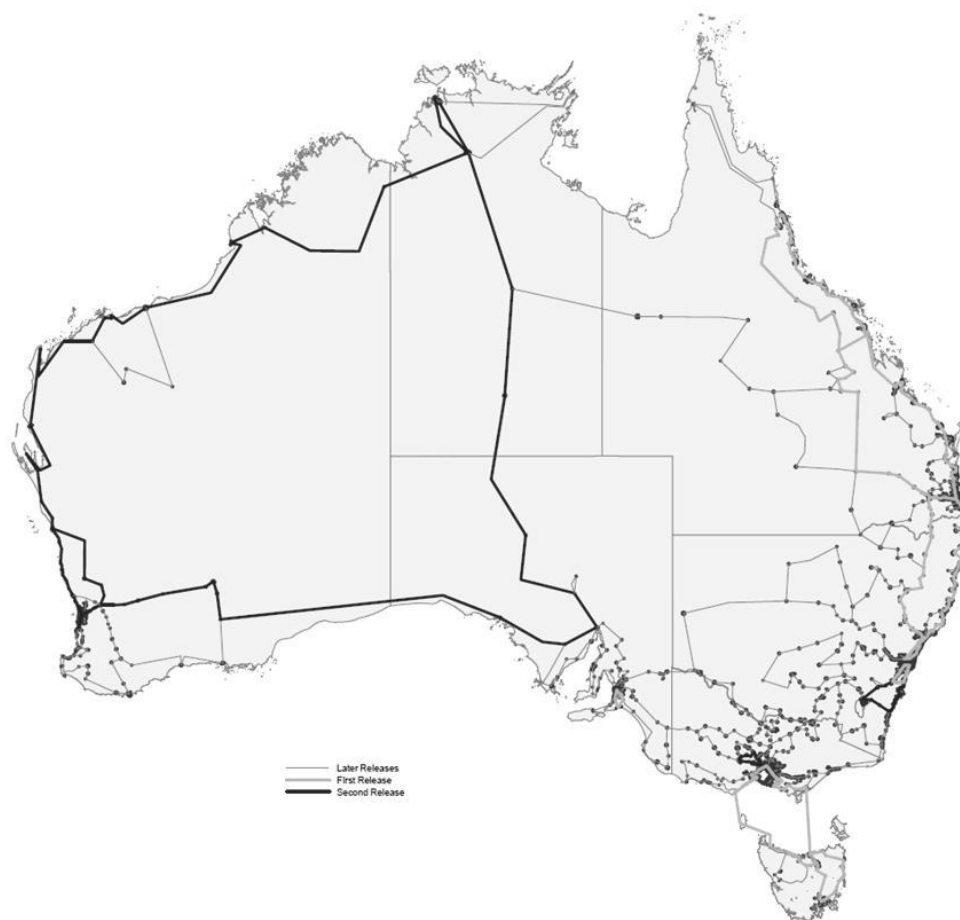


Source *NBN Co Corporate Plan 2011–2013, p. 71.*

2.15 Underpinning the development of the NBN is the Regional Backbone Blackspots Program (RBBP), designed to improve the supply of backbone transmission links to regional centres where there is a lack of competitive backbone infrastructure. The six priority locations chosen are Geraldton, Darwin, Emerald, Longreach, Broken Hill, Victor Harbour and South West Gippsland. The RBBP will create service ready POIs for 100 regional locations with provision for further access points approximately every ten kilometres along each backbone route.¹² While in Broken Hill, the committee inspected the backhaul facilities built by Nextgen Networks as part of the RBBP. Nextgen Networks was testing the system at 100 Gigabytes, which is 1000 times faster than the official specification. Figure 5.6 illustrates the proposed transit backhaul rings under the NBN.

12 DBCDE, *NBN:Regional Backbone Blackspots Program – fast facts*, viewed 11 August 2011, <www.dbcde.gov.au/blackspots_program>

Figure 2.6 Transit Backhaul Rings (subject to changes based on the semi-distributed Pol model)



Source *NBN Co Corporate Plan 2011–2013*, p. 65.

2.16 Within the context of its 30-year business model, NBN Co estimated the construction of the NBN would take 9.5 years to complete.¹³ The timelines contained in the NBN Co Corporate Plan and for the longer term in the NBN Co business model, are subject to a range of contingencies and assumptions.¹⁴ In addition to the risks of construction budget and schedule, these include the impact of the ACCC decision on POIs (i.e. raising the number of POIs from 14 to 121) and the Binding Definitive Agreement with Telstra. The NBN Co explained:

Those are the targets we will be making the committee aware of and you will find them in the Corporate Plan. There were some targets for numbers of premises passed and premises activated, but I would like to draw the committee’s attention to the fact that they were indicative targets in the Corporate Plan with a number

¹³ NBN Co, *Corporate Plan 2011–2013*, December 2010, p. 22.

¹⁴ NBN Co, *Corporate Plan 2011–2013*, December 2010, pp 45–52.

of dependencies. The first and most important dependency is the availability of exchange facilities for the location of semidistributed POIs. As you all know, our intention is to use Telstra facilities for a large number of those points of interconnect. Clearly, until the Telstra negotiations are completed and the Telstra deal is finally done, we cannot move ahead with making those points of interconnect available. That is an issue with which we have to deal.¹⁵

2.17 The ACCC explained its decision on increasing the number of POIs in the following terms:

Broadly, the approach we took in the advice to government on points of interconnection was driven by the long-term interests of users and took into account both the retail and wholesale aspects of where the points of interconnection with the National Broadband Network would be. This was an environment where there is existing transmission competition in a number of areas, and effective competition, such that the regulations occurred in another set of areas. So our approach was to look at how we move the points of interconnection to be appropriate to a natural monopoly – that is, not to see scope creep so that the last few kilometres became the last few hundred kilometres.¹⁶

2.18 The purpose of the Telstra deal is to provide:

- progressive disconnection of copper services and decommissioning of Telstra's fixed line copper as the NBN Co FTTP network is rolled out;¹⁷
- a contractual commitment by Telstra not to use its HFC network for voice or broadband services;
- use of existing Telstra exchange infrastructure and space;¹⁸
- use of a significant portion of Telstra's existing duct and conduits;¹⁹ and
- access to dark fibre and managed services for backhaul.²⁰

15 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, pp 3–4.

16 Mr Rob Nicholls, General Manager, Convergence and Mobility Branch, Australian Competition and Consumer Commission (ACCC), Transcript of Evidence, Sydney, 16 May 2011, p. 47.

17 NBN Co, *Corporate Plan 2011–2013*, 17 December 2010, p. 51.

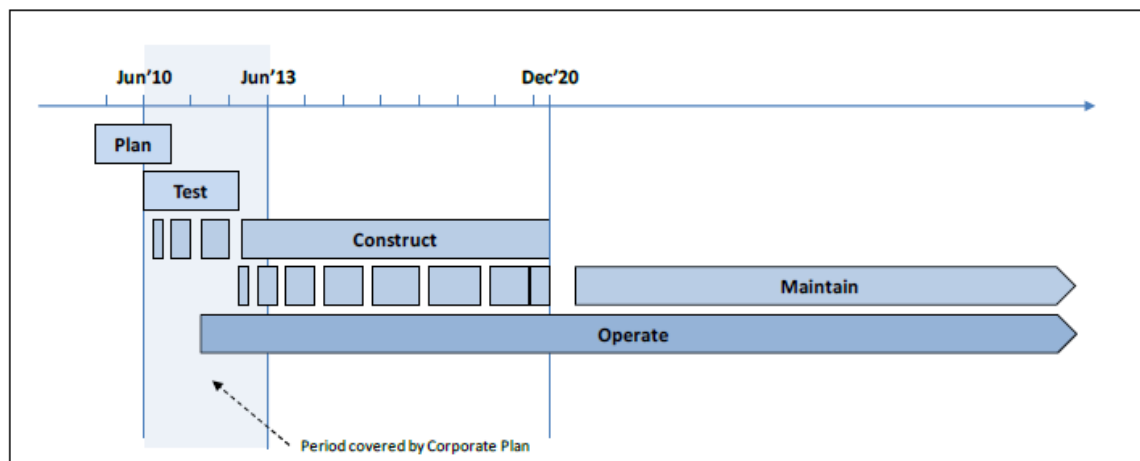
18 NBN Co, *Corporate Plan 2011–2013*, 17 December 2010, p. 51.

19 NBN Co, *Corporate Plan 2011–2013*, 17 December 2010, p. 51.

20 NBN Co, *Corporate Plan 2011–2013*, 17 December 2010, p. 51.

- 2.19 According to NBN Co, the Binding Definitive Agreement with Telstra represents a substantial improvement to the Corporate Plan and mitigates a number of potential risks to the NBN rollout.²¹
- 2.20 As previously stated, the Telstra deal has been agreed but is subject to conditions subsequent, including approval by the ACCC and endorsement by Telstra shareholders. The NBN Co has also signed a Definitive Binding Agreement with Optus, which will see the migration of Optus customers to the NBN and the decommissioning of those sections of the Optus HFC network not used by Optus to support other aspects of its business.²²
- 2.21 Figure 3.7 illustrates the long term NBN timeline as contained in the 30 year business model for the NBN.

Figure 2.7 National Broadband Network Long-Term Timeline commencing in June 2010



Source NBN Co Corporate Plan 2011–2013, p. 22.

- 2.22 A recent report by Deloitte Access Economics titled *The Connected Continent: How the Internet is transforming the Australian economy* found that the internet is expected to contribute seven per cent annually to the Australian economy over the 'next five years or increasing from \$50 billion to \$70 billion by 2016.'²³
- 2.23 The report also states that growth in the size of the Australian internet economy would occur through 'increased access to the internet' or 'increased uptake of services and intensity of use of the internet.'²⁴

21 NBN Co, *Corporate Plan 2011–2013*, 17 December 2010, p. 51.

22 Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 5 July 2011, p. 2.

23 Deloitte Access Economics, *The Connected Continent: How the internet is transforming the Australian economy*, August 2011, p. 41–42.

24 Deloitte Access Economics, *The Connected Continent: How the internet is transforming the Australian economy*, August 2011, p. 41–42.

2.24 In particular, the Deloitte report found:

- Internet activity has doubled in Australia over the previous four years which is predicted to continue into the future²⁵
- There has been a trend towards demand for faster internet connection for households and small businesses while demand for slower internet connections has steadily decreased²⁶
- Up to 60 per cent of small businesses have an online presence through a website and sell goods and services through this website. This is expected to continue into the future with the range of goods and services available expected to increase.²⁷

Government's Statement of Expectations

2.25 The Government's SoE was released on 20 December 2010 and provides direction and clarity to NBN Co about how the NBN is to be delivered.²⁸

2.26 In addition to including the Government's response to the NBN Implementation Study²⁹, the SoE provides direction to NBN Co on the:

- Government's NBN vision and objectives
- achieving the Government's coverage objectives
- premises NBN Co is required to offer a connection to meet its coverage objective
- fibre in new developments
- structuring the NBN in the long term interest of end users and the telecommunications industry
- ensuring the availability of voice services over the NBN
- designing the right network and service offerings

25 Deloitte Access Economics, *The Connected Continent: How the internet is transforming the Australian economy*, August 2011, p. 31.

26 Deloitte Access Economics, *The Connected Continent: How the internet is transforming the Australian economy*, August 2011, p. 33.

27 Deloitte Access Economics, *The Connected Continent: How the internet is transforming the Australian economy*, August 2011, p. 37.

28 Australian Government, *Statement of Expectations*, 20 December 2010, pp 1 and 13.

29 Background to the NBN Implementation Study is included in Chapter 1.

- pricing and services
- planning, reporting and performance management
- funding and privatisation
- general matters³⁰

2.27 The NBN Co Corporate Plan includes those areas highlighted in the SoE, but does not include more recent changes to Government policy such as changes to the fibre in Greenfields policy, and the increase in POI from 14 to 121, in addition to the signing of the Optus deal. The NBN Co stated it would amend its Corporate Plan to reflect any changes in policy at the request of the Government. The NBN Co stated:

...we submitted a Corporate Plan on 17 December 2010 which anticipated a Telstra deal but did not anticipate an Optus deal; we did not have the Optus deal built into the plan. It also did not include the requirements we now have on us for Greenfields. There are additional consequences of the points of interconnect decision, moving from our assumption of 14 points of interconnect to 121. The consequences were not fully included in the Corporate Plan, because that decision came just before we submitted the plan; we did not have an opportunity to incorporate all of the issues. So we will, over a period of time, be including all of those factors and any other implications that come from policy decisions by Government in the next version of the Corporate Plan, which will be submitted to the Government at their request. It is an integrated document... . It has a lot of moving parts in it. It really needs to be produced and read as a whole.³¹

Funding the National Broadband Network

- 2.28 The Government intended for the NBN to be jointly funded through public and private sector investment. In April 2009, the Government stated that the NBN would be built over an 8-year period with a private-public equity mix of investment of up to \$43 billion.
- 2.29 On 20 December 2010, the Government estimated the total capital expenditure of the NBN at \$35.9 billion with the Government expected to
-

30 Australian Government, *Statement of Expectations*, 20 December 2010, pp 1 and 13.

31 Mr Mike Quigley, Chief Executive Officer (CEO), NBN Co, Transcript of Evidence, Canberra, 5 July 2011, p. 3.

contribute \$27.5 billion in rollout equity.³² The peak funding requirement of the project is estimated to be \$40.9 billion.³³

- 2.30 The Government stated that it would fund its investment in the NBN through the 'Building Australia Fund' and the issuance of 'Aussie Infrastructure Bonds' to the general public.³⁴
- 2.31 The Government's SoE states that the Government will provide funding to NBN Co in the rollout of the NBN 'until private sector debt raised by NBN Co will complement Government equity to fund rollout activities.' The Government also stated:
- Following completion of rollout, the Government will consider the optimum capital structure for the Company following which private sector debt should be applied to repaying the Government investment, consistent with that structure.³⁵
- 2.32 In relation to the equity agreement between the Government and NBN Co, the Government stated that its investment provides market certainty and certainty for NBN Co to 'enter into the long term commercial contracts needed to deliver the Government's NBN policy objectives.'³⁶
- 2.33 The Government expects to divest its interest in NBN Co within five years of the completion and operation of the NBN.³⁷ Privatisation of NBN Co is expected to occur after:
- The Minister for Broadband, Communications and the Digital Economy makes declares the NBN is built and fully operational.
 - The Productivity Commission (PC) has concluded an inquiry into the NBN.

32 Hon Julia Gillard MP, Prime Minister, Hon Wayne Swan MP, Deputy Prime Minister and Treasurer, Senator the Hon Penny Wong, Minister for Finance and Deregulation and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'Government Releases NBN Co Corporate Plan', *Joint Media Release*, 20 December 2010.

33 NBN Co, Corporate Plan 2011-2013, 21 December 2010, p. 133.

34 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009; NBN Co Limited, *Corporate Plan 2011-2013*, 17 December 2010, p. 12.

35 Australian Government, *Statement of Expectations*, 20 December 2010, p. 11.

36 Australian Government, *Statement of Expectations*, 20 December 2010, p. 12.

37 Hon Kevin Rudd MP, Prime Minister and Senator the Hon Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, 'New National Broadband Network', *Joint Media Release*, 7 April 2009.

- The PC's report has been referred and reported on by a Parliamentary Joint Committee on the ownership of NBN Co.
- The Minister for Finance and Deregulation makes a declaration (that is not disallowed by the Parliament) that conditions are suitable to sell NBN Co.³⁸

2.34 The NBN Co commented that the amount of public funding put to it through the May 2011 Budget of (\$18.2 billion)³⁹ was sufficient for it to meet its obligations in reference to the Agreement with Telstra. The NBN Co stated:

I believe that the arrangements that were put in place between the company and the government for funding the company will be satisfactory. It will clearly be the responsibility of the NBN Co Board to ensure that is the case.⁴⁰

2.35 The Government is expected to provide the following amounts to NBN Co as part of its investment during construction of the NBN:

- \$4.4 billion in 2012-2013
- \$6.6 billion in 2013-14
- \$4.1 billion in 2015-16.⁴¹

2.36 The DBCDE outlined the arrangements for NBN Co to repay the Government's investment in it and stated:

...the Government has agreed a corporate plan with NBN Co which has them receiving equity payments while the company is set up and commences its rollout. And as the rollout proceeds and customers are signed up, the revenue grows over time. As the revenue grows and the company has the capacity to fund, in its own right, private borrowings – borrowings from the private debt markets – it will begin to repay the equity to the Government.⁴²

38 Australian Government, *Statement of Expectations*, 20 December 2010, p. 12.

39 Mr Abul Rizvi, Acting Secretary, DBCDE, Senate Environment and Communications Legislation Committee, Estimates, Transcript of Evidence, 26 May 2011, Canberra, p. 31.

40 Mr Mike Quigley, CEO, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 27.

41 Ms Pip Spence, First Assistant Secretary, NBN Implementation Division, DBCDE, Senate Environment and Communications Legislation Committee, Estimates, Transcript of Evidence, 26 May 2011, Canberra, p. 52.

42 Mr Daryl Quinlivan, Deputy Secretary, Infrastructure Group, DBCDE, Senate Environment and Communications Legislation Committee, Estimates, Transcript of Evidence, 26 May 2011, Canberra, p. 52.

Competition Issues

2.37 The Government's vision and objective for economic reform of the telecommunications sector through creation and implementation of the NBN is outlined in its SoE for NBN Co which states:

To achieve a truly competitive telecommunications industry and in support of the NBN, the Government is implementing reform of the industry. The establishment of NBN Co with a wholesale-only, open-access mandate is a key element of this reform. The Government will improve the telecommunications regulatory framework through the introduction and amendment of key legislation. This will facilitate a competitive and well functioning telecommunications sector and assist NBN Co to fulfil its mandate.⁴³

2.38 There were a number of issues raised in relation to how the implementation of the NBN would affect competition at various levels.

2.39 The key issues raised include the impact on competition of: the structural separation of Telstra, the monopoly structure of the NBN, uniform wholesale pricing of access to the NBN, how the use of FTTP and FTTN technologies may affect cost and price of the NBN and the ACCC's decision to increase the number of POIs from 14 to 121.

2.40 The NBN Co explained the creation of the NBN and the separation of Telstra will mean that RSPs will no longer have to compete at the retail level with the same group that supplies the telecommunications infrastructure. The NBN Co stated:

If the NBN is the vehicle, it means that no longer will the other retail service providers in the country have to rely on the copper network. In other words, they will not be competing with the same group that is supplying them with their underlying infrastructure; they will use the NBN. We are just a wholesaler; we do not compete with any of the retail service providers. In the end, if there is no longer a copper network and people are riding on the NBN, you have achieved structural separation.⁴⁴

2.41 In addition, the DBCDE stated that the required migration of Telstra's existing customers to the NBN (which is part of the structural separation

43 Australian Government, *Statement of Expectations*, 20 December 2010, p. 2.

44 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 18.

agreement or Binding Definitive Agreement made between NBN Co and Telstra) will improve competition policy outcomes. The DBCDE stated:

...because of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act that was passed at the end of last year, Telstra has the choice of functional separation or structural separation, and that is the preferred model from Telstra's perspective, as I understand it. I do not want to claim to be speaking on behalf of them, but we have been negotiating it for ... a long time, the preferred model for delivering that competition policy outcome is structural separation and migration of the customers.⁴⁵

2.42 The DBCDE explained the decision to use FTTP instead of Fibre-to-the-Node (FTTN) technology to implement the NBN and further stated that while the use of FTTP technology was more expensive than FTTN technology (for implementation of the NBN), it was one option available to the Government to enable the structural separation of Telstra. This in turn would allow for reform of the Telecommunications Sector, leading to improvements in competition. The DBCDE stated:

In a commercial sense, why do people favour fibre to the node? Because it is commercially cheap. Yet, as the ACCC advised the Government... – if you are going to invest in a fibre-to-the-node network...: if you were to want a competitive wholesale network, most of that investment would be wasted, because it will commercially advantage one party. So I am answering your question. You asked me why everyone favours it. The answer is that they are mainly investing on their own behalf; they are investing in their own networks and they would like to do it cheaply, because you make more money that way. That is why you do it. So it is common around the world. What are we doing? We are doing a big Government investment in a national network. I have been happy to publicly call it unique. There are 70 governments around the world, as I understand it from the United Nations Broadband Commission, that are investing some billions of dollars in fibre networks of different kinds, but we are right out there. The Economist Intelligence Unit said this, and everybody says it. We are right out there. We are building a national network. But that is the Government's plan.

45 Mr Peter Harris, DBCDE, Transcript of Evidence, Sydney, 16 May 2011, p. 39.

We are doing it for structural separation reasons – that is what we are doing. We are pursuing competition objectives.⁴⁶

2.43 Given its role in the review of the structural separation of the Telstra undertaking, the ACCC stated that it ‘would be premature [for it] to make any judgements’ about the sufficiency of retail competition as a consequence of the introduction of the NBN, but conceded that the vertical and horizontal integration of Telstra has ‘been one of primary concern’ in regard to competition in the telecommunications sector.⁴⁷

2.44 The ACCC added that while there had been progressive competition improvement in the telecommunications sector, it had been ‘patchy’. The ACCC explained:

...we have consistently said in our competition assessments that whilst there has been progress it has been patchy progress... by patchy I mean that... there have been some successes in the regime via access to the copper [Customer Access Network] CAN and as a consequence of DSL services and their provision by competitors in particular where that competition has been able to flourish. We would also say that the mobile area, which is not one we regulate in a particularly intrusive way, has been an example of infrastructure-based competition succeeding. So we would say there have been some successes in competition...⁴⁸

2.45 The ACCC also stated that in the last two years it had reconsidered its pricing approach in recognition that the Customer Access Network (CAN)⁴⁹ is ‘a piece of natural monopoly infrastructure’. The ACCC stated:

...a few things like that along the way have caused the commission to reconsider the extent to which the customer access network – the CAN – is a piece of natural monopoly infrastructure. I think that, if you looked at commission publications over the last two years, in particular we have changed our pricing approach over the last two years to move away from a pricing methodology that really talked about promoting an efficient build-buy decision – a decision on whether you build or buy or, in other words, whether you engage in full infrastructure-based competition or not – to a

46 Mr Peter Harris, DCBDE, Transcript of Evidence, Sydney, 16 May 2011, pp 40-41.

47 Mr Michael Cosgrave, Group General Manager, Communications Group, ACCC, Transcript of Evidence, Sydney, 16 May 2011, p. 51.

48 Mr Michael Cosgrave, ACCC, Transcript of Evidence, Sydney, 16 May 2011, p. 51.

49 The Customer Access Network is the link between the telephone exchange and the customer, ACCC, September 2007, Regulation Impact Statement, *Telstra customer access network record keeping and reporting rule*, p. 4.

recognition that the CAN is much more a natural monopoly, which is why we have started to price it much as we would price an electricity utility or any other natural monopoly.⁵⁰

2.46 The impact of the NBN on smaller RSPs in reference to the decision to increase the number of POIs from 14 to 121 was canvassed by Mr Michael Bethune, CEO of Australia On Line Pty Ltd. Australia On Line put the view that the increase in the number of POIs would adversely affect the ability of small operators to compete with the increase in capital and running costs, pricing them out of the market.⁵¹

2.47 Australia On Line stated that it agreed with the view put by Internode (another commercial RSP) that the decision to increase the number of POIs would result in less competition, fewer choices and higher prices. Australia On Line stated that Internode:

...expects the ACCC's POI increase to leave just 5 large ISPs standing, I agree. We will be forced out of non-metro subscriber services and later be driven from the industry. The result for non-metro residents, \$32 billion later, is fewer offerings, less competition, higher prices and fewer choices – back to the future.⁵²

2.48 The DBCDE stated the NBN will 'provide a level playing field for all RSPs to compete on non-discriminatory terms and aims to ensure that an RSP is not able to leverage an advantage from NBN Co due to its size.'⁵³

2.49 In regard to RSPs concerns about pricing and charges associated with access to the NBN, NBN Co stated that it had held discussions with Internode. The NBN Co stated:

...we have had ongoing discussions with [Internode] about their concerns. There is a balance here between having a CVC⁵⁴ charge to a point at which you can say, 'How small do you go where it is absolutely equal?' Clearly at some point a retail service provider has to make some investment in infrastructure.⁵⁵

50 Mr Michael Cosgrave, ACCC, Transcript of Evidence, Sydney, 16 May 2011, p. 49.

51 Mr Michael Bethune, Chief Executive Officer, Australia On Line Pty Ltd, Transcript of Evidence, Melbourne, 28 July 2011, pp 14–15.

52 Australia On Line, *Submission 1*, p. 1.

53 DBCDE, *Submission 3*, Question No:9.

54 The CVC is the Customer Virtual Circuit which 'determines the capacity required to service each connectivity Serving Area. The CVC is an aggregation of the Access Virtual Circuit from the End User premises back to the Point of Interconnect. NBN Co, *Corporate Plan 2011-2013*, p. 152.

55 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 20.

- 2.50 In response to this concern, the DBCDE stated that NBN Co's Corporate Plan indicates that its product pricing will decline over time and that NBN Co's pricing model provides flexibility and value to a broad range of RSP business models. The DBCDE stated:

The NBN Co Corporate Plan 2011-13 states that the CVC pricing adds approximately less than one dollar per average end user for a 12/1 megabit per second service with current average data usage. Over time, the Corporate Plan indicates that product pricing, including for higher bandwidth plans, will decline.

According to NBN Co, the pricing model provides flexibility and value to a broad range of RSP business models. Using a mix of speeds, traffic classes and contention, RSPs will be able to create offerings tailored to their particular customer set with the ability to scale up or down as required. The model also supports the ability for RSPs to offer services nationally or to a specific region. If RSPs wish to service a smaller geographical area, they are able to do so by connecting at a smaller number of points of interconnect. NBN Co anticipates that this will allow smaller RSPs to more effectively compete using the NBN which is consistent with government expectations.⁵⁶

- 2.51 Further, NBN Co stated that in terms of the threshold for the access charge for RSPs the aim was to reach balance in making a seven per cent revenue return and setting the right access price. The NBN Co stated:

We are working through that at the moment, but I have a set of cases – which say: 'This is how it breaks out. These are what the charges are for a given size.' Obviously, as you go to 121 points of interconnect you need to take that into account. It is also clear that we tested this rigorously with quite a number of retail service providers. Would they like our prices to be lower? Of course they would. But we have to balance between aiming for a seven percent return and getting the right prices.⁵⁷

- 2.52 In relation to the disadvantage of offering volume discounts to ensure competition in the market, NBN Co commented:

Smaller operators tend to focus on specific areas; they do not try to cover the whole nation. If they try to cover the whole nation then they have to make investments, including in CVC capacity, across

56 DBCDE, *Submission 3*, Question No: 9.

57 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 20.

all 121 points, but if they are small and focus on regional areas the investment is much more modest.⁵⁸

2.53 The NBN Co was of the view that the decision to increase the number of POIs from 14 to 121 'is certainly a less favourable outcome for smaller operators than our original 14 points of interconnect', but emphasised that this was 'an ACCC decision'.⁵⁹

2.54 Broadly, the NBN Co also stated that the pricing structure of the NBN product had been released for public comment 'for quite some time' and would be included in its Special Access Undertaking (SAU) to the ACCC. The NBN Co commented:

We have had our product construct out into the public domain for quite some time for consultation. We will have it embedded in our special access undertaking which has been prepared for submission to the ACCC. So it will get quite a hearing.

2.55 The ACCC stated that its decision to increase the number of POIs from 14 to 121 was designed to enhance competition and would not disadvantage small RSPs. The ACCC explained:

Although Australia Online and a number of smaller [Internet Service Providers] ISPs, or retail service providers, have expressed concerns about the number of points of interconnection, we are of the view that there is a reasonable prospect, if not current existing competition, for transmission from points of presence, which is typically what an ISP or RSP has in capital cities, out to the 121 points of interconnection that we provided advice to Government on. So Australia Online and other providers in the future would expect to be able to acquire services that deliver from their point of presence to the POIs either from current transmission providers or potentially new services that offer layer 3 connectivity.⁶⁰

2.56 At the committee's 5 July 2011 hearing, NBN Co stated the SAU is a Wholesale Broadband Agreement (WBA) and was about to enter into a third round of public consultation and review scheduled for 19 and 20 July. The NBN Co and the ACCC have held discussions over the SAU and input from the WBA⁶¹ consultation process is expected to be included in

58 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 21.

59 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 21.

60 Mr Rob Nicholls, ACCC, Transcript of Evidence, Sydney, 16 May 2011, p. 47.

61 The WBA acts as a contract between NBN Co and RSPs and outlines the wholesale supply terms for NBN Co's fibre, wireless and satellite products. M Bingemann, A Hepworth, 'Broadband network could avoid scrutiny', *The Australian*, 26 July 2011.

the SAU. A date for lodgement of the SAU is still to be agreed between NBN Co and the ACCC. The NBN Co stated:

The associated documents with the special access undertaking are [part of the] ... wholesale broadband agreement. I believe that we have scheduled for 19 and 20 July to have the third public consultation and review of that WBA. In parallel, we have been holding discussions – as you would expect – with the ACCC on the special access undertaking. That is progressing. We will probably take inputs from the third public consultation on the WBA and incorporate those and submit it to the ACCC in due course. I do not have a target date. That will probably be done in consultation with the ACCC.⁶²

- 2.57 The DBCDE advised that NBN Co's terms and conditions which include pricing (which are to be outlined in the SAU) would be subject to close scrutiny by the ACCC. Further the DBCDE stated:

The ACCC will be able to overwrite terms and conditions, including pricing, set out in a Standard Form of Access Agreement, with an Access Determination. The ACCC will need to consider NBN Co's terms and conditions, including pricing, against the statutory framework, including NBN Co non-discrimination obligations and the long term interests of end-users test.⁶³

- 2.58 The ACCC expected that the timeframe for it to complete its review of the SAU would be between six and twelve months as the issues surrounding the SAU 'are likely to be both complex and ... potentially controversial.'⁶⁴

Regional and Remote Access

Background

- 2.59 In recognition of the need for access to affordable high speed broadband across Australia including regional, rural and remote communities, the Government stated in its vision and objectives for the NBN that it:

62 Mr Mike Quigley, NBN Co, Transcript of Evidence, Canberra, 5 July 2011, p. 16.

63 DBCDE, *Submission 3*, Question No: 9.

64 Mr Michael Cosgrave and Mr Mark Pearson, ACCC, Transcript of Evidence, Sydney, 16 May 2011, pp 50-51.

...recognises that access to affordable high speed broadband is essential to the way Australians communicate and do business. It will drive productivity, improve education and health service delivery and better connect our cities, regional, rural and remote communities.⁶⁵

2.60 On 7 September 2010, the Government entered into the 'Commitment to Regional Australia' agreement.⁶⁶ Government commitments relating to rollout of the NBN in regional areas made under this agreement include:

- prioritising the rollout of the NBN in regional areas and
- fast-tracking the introduction of wireless and satellite services to enable better broadband access for regional areas sooner.⁶⁷

2.61 Further, the Government's SoE for NBN Co on delivering the NBN requests NBN Co to:

- take into account the Government's commitment that fibre will be built in regional areas as a priority
- explore mechanisms by which community inputs and advice on regional priorities - in order to overcome the digital divide and improve the efficiency of the rollout - can be considered by NBN Co, including through existing coordination structures like the Regional Development Australia Committees⁶⁸
- 'explore options to bring forward a suitable satellite solution to ensure the availability of improved satellite broadband services for regional Australia, eventually replacing the existing ... Australian Broadband Guarantee program.'⁶⁹

2.62 The DBCDE stated that for the NBN to deliver uniform national wholesale pricing, 'NBN Co will need to cross-subsidise from its operations in lower cost, higher revenue areas to higher cost, lower revenue areas, particularly those in regional, rural and remote areas.'⁷⁰

2.63 The NBN Co acknowledged that it has an obligation to follow-through on the Government's policies including the focus on regional Australia and

65 Australian Government, *Statement of Expectations*, 20 December 2010, p. 1.

66 As stated in Chapter 1, this Agreement was reached between the Government and Mr Tony Windsor MP, Member for New England and Mr Robert Oakeshott MP, Member for Lynne, Australian Government, *Statement of Expectations*, 20 December 2010, p. 2.

67 Australian Government, *Statement of Expectations*, 20 December 2010, pp 2-3.

68 Australian Government, *Statement of Expectations*, 20 December 2010, p. 3.

69 Australian Government, *Statement of Expectations*, 20 December 2010, p. 4.

70 DBCDE, *Submission 3*, Questions No:12

commented that it will try to balance all competing interests. The NBN Co stated:

...we have an obligation to execute on the Government's policies, including a focus on regional Australia. We will try to balance all of those competing interests, including what infrastructure is available at what time and, assuming we go ahead with a contractor, which are the areas that make the most sense. We will put all of those competing interests in somewhere along the line, take that back to the shareholder and say, 'This looks like the three-year plan,' and seek their endorsement of that.⁷¹

- 2.64 The committee received evidence from two regional remote areas, Broken Hill and the surrounding region of New South Wales (NSW) and Julia Creek, Queensland. These towns exemplify the types of issues that are faced by regional and remote areas in seeking to access and use the internet and other information communication technologies which rely on the internet.

Broken Hill, New South Wales and Surrounding Region

- 2.65 Evidence taken by the committee at its recent hearings in Broken Hill, highlighted the importance of improved broadband access for regional and remote communities. For these communities, improvement in broadband access is not just about the future, but about current needs. The potential benefits of improved broadband access and service for people outside the major cities in improving access to basic services is significant and has the potential to substantially reduce the tyranny of distance for people living in regional and remote communities.
- 2.66 Three major issues were highlighted in reference to the rollout of the NBN in regional and remote areas. These were:
- the speed of the rollout to regional and remote communities
 - the adequacy of the proposed access to the NBN in regional and remote areas
 - improvements to service delivery and economic development in regional and remote areas arising from implementation and access to the NBN.
- 2.67 The need for immediate NBN access for the Broken Hill and surrounding region was highlighted in much of the evidence presented to the

71 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 20.

committee and is the case of most rural and regional communities across Australia. Submissions and witnesses highlighted the potential benefits (of access to the NBN) for health, education, commerce and individuals in having greater connectivity across the world, and urged the immediate rollout of the NBN in Broken Hill and the far west of NSW generally.

- 2.68 The need for the NBN rollout was not, however, simply a matter of creating new services and opportunities. The NBN was also seen as an important element in simply maintaining existing levels of service in the face of rapid technological change. Dr Stephen Flecknoe-Brown, Chairman of the Far West Local Health District Board, argued that ‘our need for connection to the National Broadband Network is both great and urgent’.⁷²
- 2.69 The Far West Local Health District Board’s Telehealth Manager, Ms Sharyn Cowie, highlighted the fact that advancing technology would mean that not only were regional areas falling behind in relative terms, but also in absolute terms – technological change would mean that services that were once available, and at the cutting edge of technology, were no longer available in any form.⁷³
- 2.70 The Royal Flying Doctor Service (RFDS) highlighted a similar problem in its evidence, describing loss of download speeds and loss of productivity over time. Mr Gary Oldham, IT Manager with RFDS, stated:
- At the rate of decline of the broadband system that we are currently using, if nothing is done now there is going to be a point in time when it is going to be unusable for us and our clinicians. Where does that leave our clinical services in these technological days? The Broken Hill area needs the upgrade now, not later; otherwise, it will have a very serious impact on the health of people living in our area.⁷⁴
- 2.71 In terms of the type of technology that is currently in use in areas where access to internet is an issue, the RFDS described use of an aerial mounted on an old radio mast (for its communication needs) at a remote clinic in the remote town of Packsaddle. The RFDS explained:
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72 Dr Stephen Flecknoe-Brown, Chairman, Far West Local Health District Board, Transcript of Evidence, Broken Hill, 27 July 2011, p. 39.

73 Ms Sharyn Cowie, Manager, Telehealth, and Acting Manager, Electronic Medical Record Support Team, Far West Local Health District Board, Transcript of Evidence, Broken Hill, 27 July 2011, p. 40.

74 Mr Gary Oldman, IT Manager, Royal Flying Doctor Service (RFDS), Transcript of Evidence, Broken Hill, 27 July 2011, p. 34.

At Packsaddle itself we set up a clinic in the local little huts that are provided by the roadhouse and we use their facilities. They have an aerial that they have mounted on an old radio mast. They have stuck in an extension cord and a little car aerial for Next G. They have done it themselves by making their pole higher and higher to try to tap the nearest tower. That is how we do our business.⁷⁵

2.72 There were also concerns expressed about the adequacy of the proposed NBN rollout to regional and remote communities. Ninti One Ltd stated that the proposed FTTP model may not be an effective solution for people living in remote Indigenous communities. Instead, Ninti One suggested that 'internet access should be provided for shared community access to WiFi networks for community account holders and billing options'.⁷⁶ The outcome would be a Wi-Fi Base Station running off a satellite signal that connects the satellite through Wi-Fi to the broader community. Ninti One highlighted the availability of web mesh technology (which it is trialling) to achieve an efficient and cost-effective outcome.⁷⁷

2.73 Ninti One Ltd explained that the take-up of this test-technology was low as there was a cost factor involved in making the technology readily available and the area to which it was needed has much abject poverty. Ninti One suggested that high-speed, low-cost internet access was needed to allow remote and poorer communities for greater access to online services and markets. Ninti One Ltd stated:

Some years ago we did an initial report into access and found it to be very poor. We then looked at what sort of technology would change that. We developed a piece of technology that would distribute the internet at the community level. We had real difficulty in getting any take-up from any telecommunications entity because we work in the area of market failure and there are not the customers to bring in enough cash for them to be remotely interested in investing in it. This technology in 2008 cost \$1000 and was made with readily available component parts. Due to the lack of income streams it just was not taken up. In summary, in the areas we work in we work with abject poverty. To change a lot of that abject poverty we would contest that we need high-speed,

75 Dr Michael Hill, Senior Medical Officer, RFDS, Transcript of Evidence, Broken Hill, 27 July 2011, pp 36-37.

76 Ms Jan Ferguson, Manager, Ninti One Ltd, Transcript of Evidence, Broken Hill, 27 July 2011, p. 1.

77 Ms Jan Ferguson, Ninti One Ltd, Transcript of Evidence, Broken Hill, 27 July 2011, pp 2-3.

low-cost internet access to change people's access to markets and services.⁷⁸

2.74 Mr Michael Wilson, Director of M&S Consultants Pty Ltd, questioned the utility of the NBN proposals for the School of the Air (SOTA). Mr Michael Wilson was concerned due to the loss of multicasting that the interim satellite solution within the NBN rollout would lead to a decrease in the capacity of the SOTA to deliver services. Mr Michael Wilson also questioned the suitability of the long-term satellite solution to meet the needs of the SOTA and others in remote communities.⁷⁹

2.75 In its evidence, RFDS questioned the adequacy of the proposed satellite service for delivering high definition video conferencing, especially for the purpose of video conferencing. The RFDS was confident that such services could not be made available under the NBN rollout, as described, without substantial advances in technology.⁸⁰

2.76 There was also some concern expressed over whether potential user-costs would undermine access to NBN services in regional and remote communities. In this vein, Ninti One Ltd stated:

If you are at the poor end of the system then the figures I have heard mean you would not actually be able to engage. We have done some work which I can refer you to around relative levels of poverty – \$20 makes a huge difference to someone's relative level of poverty on \$296 a week. On the figures we have seen, we do not believe that people can effectively engage when their average household income is only \$296 a week.⁸¹

2.77 In its evidence, the RFDS also highlighted the problem of costs in accessing services.⁸²

2.78 Mr Frank Zaknich, General Manager of the Broken Hill City Council highlighted the importance of the rollout of the NBN in terms of the benefit and improvement to economic development it would provide to the region. Mr Frank Zaknich stated:

The ... council views the rollout of the national broadband network as the key enabling infrastructure for the City of Broken Hill and

78 Ms Jan Ferguson, Managing Director, Ninti One Ltd, Transcript of Evidence, Broken Hill, 27 July 2011, p. 2.

79 Mr Michael Wilson, Director, M&S Consultants Pty Ltd, Transcript of Evidence, Broken Hill, 27 July 2011, pp 9-14.

80 Mr Gary Oldman, RFDS, Transcript of Evidence, Broken Hill, 27 July 2011, p. 37.

81 Ms Jan Ferguson, Ninti One Ltd, Transcript of Evidence, Broken Hill, 27 July 2011, p. 3.

82 Mr Gary Oldman, RFDS, Transcript of Evidence, Broken Hill, 27 July 2011, p. 36

region and a critical part of retaining and attracting residents, business and industry to the far west of New South Wales. That is the key driver for us.⁸³

- 2.79 Further, the Broken Hill City Council stated that it is a strong advocate for the installation of the RBBP infrastructure which is currently under construction in and around Broken Hill.
- 2.80 In addition to advocating for the RBBP and in support of the rollout of the NBN and underlying national policy, the Broken Hill City Council has:
- 'established in partnership with the Regional Development Australia Far West, a Digital Economy Working Group to develop and progress a key enabling Digital Economy Strategy for Broken Hill and the Far West NSW Region'
 - ensured 'key components of the proposed Broken Hill Digital Economy Strategy will align with the National Strategy - including online participation by households, online engagement by businesses and not for profit organisations, smarter management of the local environment and infrastructure, improved health and aged care, expanded online education, increased teleworking, improved online government service delivery and engagement - as strategic outcomes.'⁸⁴
- 2.81 On the grounds of improving Government service delivery including health and education and assisting economic development for Broken Hill and the surrounding region, the Broken Hill City Council requested that Broken Hill be made a priority location for NBN rollout.⁸⁵
- 2.82 The RDA Far West NSW stated that there are 'tremendous disadvantages faced by residents in the region' especially in terms of managing sector diversification and generational change in the regional economy.⁸⁶
- 2.83 RDA Far West NSW stated the broadband services currently in Broken Hill 'do not meet customer expectations in terms of price or product quality. Speed test (carried out on Broken Hill Broadband ADSL connections)⁸⁷ results show deficiencies in speed and consistency of

83 Mr Frank Zaknich, General Manager, Broken Hill City Council, Transcript of Evidence, Broken Hill, 27 July 2011, p. 29.

84 Broken Hill City Council, *Submission 5*, p. 4.

85 Broken Hill City Council, *Submission 5*, pp 4-5.

86 Regional Development Australia (RDA) Far West New South Wales (NSW), *Submission 8*, p. 1.

87 RDA Far West NSW, *Submission 8*, Appendix 2.

quality. The clear message from our region is “We must have the NBN, we need it now, and can you please advise when we can receive delivery”.⁸⁸

- 2.84 Mrs Linda Nadge, Executive Officer, RDA Far West NSW commented on why the NBN rollout is needed immediately for the Broken Hill area and stated:

...we are really pushing to get the NBN rolled out here as quickly as possible. The future of our people in the region depends upon speedy delivery. If we wait until the end of the rollout period, for example, to receive the broadband network, a lot of our strategies would become quite worthless and probably not worth pursuing in 10 years time because we will have been left so far behind. Some of the submissions that the Central Darling Council has received really endorse that, such as the ones from Perilya and the hotelier in Tibooburra, who also sent a submission in. We also got one from a resident of Tibooburra, Andrew Chapman, who is well known in the education circles up there. The village committee from Tibooburra are also pushing for this. It is very important to the region.

There was a comment this morning by Mr Looney from Menindee, who mentioned that speed was not so much his concern; it was more about the quality of service. I have to say that I have a problem with the speed as well. I think the speed is a big issue because I cannot function in my office 200 metres from the exchange at the speed I would like to operate at. To get around that, I have two screens on my desk so that I can work on one while on the other I am waiting for things to happen on the internet. That is how bad it can be out here.⁸⁹

- 2.85 The main concerns about NBN rollout expressed by RDA Far West NSW are: delays of the NBN rollout in the Broken Hill region and timing of the NBN rollout, understanding the technical side of the NBN, the definition of premise and the reach of the fibre, wireless and satellite footprints, ensuring access prices to the NBN are competitive and education about the NBN.⁹⁰

88 RDA Far West NSW, *Submission 8*, p. 1.

89 Mrs Linda Nadge, Executive Officer, RDA Far West NSW, Transcript of Evidence, Broken Hill, 27 July 2011, p. 16.

90 RDA Far West NSW, *Submission 8*, pp 11-14.

Julia Creek, Queensland

- 2.86 On 22 March 2011, Mr Paul Woodhouse, the Mayor of the McKinlay Shire Council located in Julia Creek, Queensland wrote to the committee to highlight the issue of connection to the NBN of regional towns that were outside of NBN Co's fibre footprint.
- 2.87 Mr Woodhouse commented that Julia Creek is defined as a district rural activity centre with educational and health services and acts as a hub for a 40 000 square kilometre area that supports around 1 000 residents. And 'while the cable has already been laid, and actually passes through the town itself, I was disappointed to find the community would not be connected.'⁹¹
- 2.88 Mr Paul Woodhouse noted that Julia Creek would benefit from inclusion in the NBN fibre footprint as it would enable better health services and allow for improved communication for the pastoral industry across great distance.
- 2.89 In addition, Mr Paul Woodhouse provided a list of other small towns located in Queensland and the Northern Territory that were in a similar situation, that would benefit from a fibre and or satellite connection to the NBN.
- 2.90 The NBN Co responded to the concerns raised through the Julia Creek example and stated that it is expensive to interrupt the fibre traffic at every interval. However, the NBN Co stated that it was developing a process (and trialling it in Tasmania) to allow for areas to be included in the fibre footprint. Connection to the fibre network would in such cases be available on request with an incremental cost (if the request is accepted by NBN Co) to the party making the request.⁹²
- 2.91 The NBN Co clarified its approach to allow for applications for connection to the fibre network (where available) and stated:
- If a council or householders or business premises put a request to us, we will make sure it is well known that there is a process: that people can apply to NBN Co to see if we can extend the fibre footprint. So, generally, we will cover every town throughout Australia with 1000 or more premises with fibre, and if they are on our transit links we will cover them if there are 500 premises or more. If a town has, for example, 300 premises but the council

91 Mr Paul Woodhouse, Mayor, McKinlay Shire Council, Julia Creek, Queensland, Correspondence dated 22 March 2011, p. 1.

92 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 6.

would like us to provide a fibre solution to that town, then they can apply to us. We will tell them what the incremental cost will be and then they can make a decision as to whether they would like us to do that.⁹³

- 2.92 The NBN Co undertook to return to the committee with an indication of the incremental cost of providing fibre to Julia Creek and in its response to the committee stated:

NBN Co Network Planning and Design are undertaking a study of Julia Creek to identify the incremental cost per premises to provide fibre to the town compared to what it would have cost if the town was covered by the planning rule of 500+ premises on an existing transmission route.

In order to complete the study data on the existing infrastructure (for example the Telstra Exchange to accommodate the Fibre Access Node) the costs for construction at this location have to be obtained. It is estimated that the case study will be completed by late July 2011.⁹⁴

Access to Government Services

- 2.93 The Post Office Agents of Association Limited (POAAL) highlighted that there are 464 post offices that do not offer online services which can cause difficulties for remote areas (which often have manual post offices) as commonly the Post Office provides the only banking service available in an area.⁹⁵

- 2.94 The Community Service Obligations (CSO) under which Australian Post operators are expected to deliver services does not include a uniform approach to service delivery for all post offices. The POAAL explained:

While the CSOs address the matter of the number of post offices, and to a point, the distribution of post offices, it does not stipulate that all post offices offer all Australia Post services. All post offices offer basic postal services (assessment and lodgement of postal items, for example) but not all offer online banking, ID verification, parcel tracking, money transfers, real-time bill

93 Mr Mike Quigley, NBN Co, Transcript of Evidence, Sydney, 16 May 2011, p. 14.

94 NBN Co, *Submission 2*, Question No:3.

95 Post Office Agents Association Limited, *Submission 4*, p. 1.

payment or access to certain Local, State and Federal Government services. Australia Post has been an agent for the Commonwealth Bank for decades, and in the last 15 years Australia Post has added to the range of banking services available from various banks at post offices. Now, in many communities, the local post office has become a primary access point for cash. While this is not one of Australia Post's CSOs, a community expectation has grown over the years that basic banking can be done at the local post office.⁹⁶

- 2.95 In addition, as these manual post offices are small and serve rural and remote communities, without the customer base, they are unlikely to grow and meet the requirements to be able to receive electronic point of sale (EPOS) services.⁹⁷
- 2.96 The POAAL states that the costs associated with EPOS include: 'data connection, computer hardware, training and ongoing help and support' with the cost to installation and maintaining the data connection the highest and most prohibitive cost.⁹⁸
- 2.97 The Maari Ma Health Aboriginal Corporation commented that it received Commonwealth funding to assist with improving the health and wellbeing of Indigenous communities in NSW, but often in addition to the funding provided needs the infrastructure to ensure that the funding is targeted to need. The Maari Ma Health Aboriginal Corporation commented:

You very much have a chicken and egg situation where the programs have been put in place to address poor Aboriginal health in remote Australia and therefore require resources. Yet remote Australia is often the poor cousin to metropolitan Australia regarding the infrastructure that is necessary to close that gap. Examples are two of those funding programs I have mentioned: the Community Support Service, which is all about providing information, referrals and internet access to Aboriginal people regarding mainstream services to try and assist Aboriginal people to better access mainstream services so that they overcome some of that disadvantage, and the remote service delivery program, which Paul Brown from Central Darling Shire mentioned, which is all about improving access to government services, both state and

96 Post Office Agents Association Limited, *Submission 4*, p. 2.

97 Post Office Agents Association Limited, *Submission 4*, p. 2.

98 Post Office Agents Association Limited, *Submission 4*, p. 2.

Commonwealth, for Aboriginal people living in remote Australia.⁹⁹

- 2.98 In addition, the Maari Ma Aboriginal Health Corporation commented that remote areas rely on online training and education so that people can serve the communities they live in. The Maari Ma Aboriginal Health Corporation stated:

In terms of further addressing the issue of educational resources and training, we do a lot of online learning and distance education in our region. This means that people, particularly Aboriginal people, do not have to leave country or their community to actually access that training. It is incredibly important to us to be able to increase the number of Aboriginal people who are becoming clinicians for our region.¹⁰⁰

Concluding Comments

- 2.99 In anticipation of the growing and predicted increased use of internet by Australian households and businesses to access services and conduct commerce, the committee sees the improvement of information communication technology as important to future economic productivity and growth. This is particularly the case for remote and regional areas where there is often limited service delivery and commercial opportunity.

Timeframe for rollout of the National Broadband Network

- 2.100 The committee acknowledges that NBN Co has advised the NBN will be able to use existing Telstra infrastructure which will assist the timeframe for the NBN rollout and make up for any time delay experienced as a result of the Australian Competition and Consumer Commission (ACCC) decision to increase the number of Points of Interconnect (POIs) and negotiating the Binding Definitive Agreements between NBN Co and Telstra and NBN Co and Optus.
- 2.101 The committee is unaware of NBN Co's progress attracting private equity and the timeframe for NBN Co to provide a return on the Government's investment in it. The committee will seek further information on how

99 Ms Cathy Dyer, Director, Corporate Services, Maari Ma Health Aboriginal Corporation, Transcript of Evidence, Broken Hill, 27 July 2011, p. 25.

100 Ms Cathy Dyer, Director, Corporate Services, Maari Ma Health Aboriginal Corporation, Transcript of Evidence, Broken Hill, 27 July 2011, p. 25.

private equity will be attracted, used and repaid to the Government on its NBN investment.

- 2.102 The committee will also examine whether, having regard to Divison 2 of the *National Broadband Network Companies Act 2011* (Cwlth), there are provisions for NBN Co to attract private equity, and whether there are options available to NBN Co to engage private equity through the construction phase of the NBN, to enable a return to taxpayers sooner.

Competition issues

- 2.103 The committee is also concerned about the impact of the NBN on competition. The committee believes that the Government needs to clearly state how the NBN will benefit the community by providing effective competition at the wholesale and retail levels.
- 2.104 In particular, greater clarification on how the POIs will impact on competition at the retail level in the short to long terms is needed to provide certainty for small internet service providers, and ensure competition outcomes are achieved.

Service delivery and timeline for NBN Rollout in regional and remote areas

- 2.105 It is clear to the committee the rollout of the NBN in regional and remote areas is vital to the future of those areas in terms of the delivery of services such as education and health and in the longer term, economic development and growth and vitality of local economies.
- 2.106 The evidence received by the committee indicates that there is considerable uncertainty about the timing of the rollout to regional and remote areas and concerns about the level of service provided to those areas.
- 2.107 In particular, the committee has received evidence that the transitional arrangements during the NBN rollout may lead to a decline in services during the rollout phase, and that certain capabilities may be reduced in the transition to the NBN. This was presented to the committee in terms of the services that may be affected by changes to satellite technology. The committee suggests that the NBN Co needs to investigate the impact of the transition of satellite technologies and if required formulate and implement contingency measures to counteract any negative impact. The committee will be raising these issues with the NBN Co and the DBCDE to investigate if there is a reduction of service for satellite to make transition as seamless as possible.

- 2.108 The committee recommends that Government agencies need to take steps now to enable them to be NBN-ready, prior to receiving and working with NBN for service delivery. This is especially evident in the examples presented to the committee in reference to postal delivery in remote areas where there is no electronic-point-of-sale available, making simple services such as online banking impossible. In addition, the benefits for health and education delivery will mean that people are able to stay in their communities and access Government services without cost or delay. This would enable Government agencies to make significant savings and better target services to individual need.
- 2.109 The committee will continue to pursue this issue into the future.
- 2.110 The committee believes that NBN Co should provide definite timelines for the rollout of services to regional and remote areas, clarify the impact of the transition on currently available levels of service, and provide contingencies against potential loss of capacity during and after NBN rollout. Further, NBN Co should communicate these to affected communities.

Recommendation 2

- 2.111 **The committee recommends that Government agencies take measures to ensure they are ready for the rollout of the National Broadband Network (NBN), prior to receiving and working with the NBN for service delivery.**

Recommendation 3

- 2.112 **The committee recommends that NBN Co Limited publish a detailed account of impacts on timing and cost of the National Broadband Network as a result of the time taken and resources used to complete the Binding Definitive Agreements between NBN Co and Telstra and NBN Co and Optus, and the decision to increase the number of Points of Interconnect from 14 to 121.**

Recommendation 4

2.113 The committee recommends that the Minister for Broadband, Communications and the Digital Economy publish a detailed statement outlining the productivity, jobs and competitive benefits of:

- the overall rollout of the National Broadband Network for the cost-efficient provision of basic broadband infrastructure for all Australians;
- how competitive markets will operate at the wholesale and retail levels, with particular reference to the impact on small, existing internet service providers and other fibre deployment companies; and
- the impact on wholesale and retail competition of the increase of the Points of Interconnect from 14 to 121.

Recommendation 5

2.114 The committee recommends that NBN Co:

- publish timeframes for the rollout of National Broadband Network (NBN) services to regional and remote areas and communicate these to the areas to which they apply;
- investigate the impact of the transition to the NBN on currently available levels of service for satellite technology; and
- taking into consideration findings of this investigation, formulate contingency plans against potential reduction of capacity in regional and remote areas as a consequence of the NBN rollout, if required.

Robert Oakeshott MP
Chair

25 August 2011



Dissenting Report by Coalition Members and Senators

Background: Committee Provided with Insufficient Resources for Scrutiny

Paragraph 1.47 of the Joint Committee report notes that the Shareholder Ministers wrote to the committee in early July 2011 to advise of reporting arrangements on the NBN rollout, conscious that the Committee was due to table its first six month report by the end of August. The letter stated: “We are conscious of the importance of providing the Committee with quality information to inform its deliberations, and we are not confident that we could do so on an earlier timeframe, at least for this initial report.”

The unsatisfactory consequence of this delay is that in this, the first report of the Committee appointed to oversee the construction of the NBN, we are unable to provide Parliament with the most up to date information about the progress of the construction, the rate of connection not to speak of the amount of capital drawn down and expended by the NBN Co.

The Coalition notes that the context of the Committee's was that the NBN Co had already been given extraordinary exemptions from Parliamentary and Regulatory oversight. These include:

- Exemption from review by the Public Works Committee of the Parliament
- Passing of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Act 2010, which limited the ACCC's oversight of commercial agreements undertaken by the NBN.
- The lack of a cost-benefit analysis by the Productivity Commission (or any other competent agency) to rigorously examine whether the objective of

universal and affordable broadband was most cost effectively and speedily achieved by the NBN project as presently designed.

- Failure to release the full 400-page NBN Co Corporate Plan.
- Exemptions from Freedom of Information laws.¹

The Coalition notes that in the 2011-12 financial year, the NBN Co will receive a \$3.1 billion cash injection from the Australian Government, equating to more than \$258 million a month². The Coalition judges that the NBN Co has been given ample resources to meet reporting deadlines set by the Committee.

In paragraph 1.11 the Joint Committee Report quotes the March 2010 NBN Implementation Study's confirmation that "high speed broadband for all Australians was achievable and could be built on a financially viable basis, with affordable prices for consumers".

From the outset, the Coalition's argument with the NBN has not been over the first point of viability. Fibre to the home (FTTH) access networks of comparable size have been built in several other countries, notably the US and Japan, and such a network is feasible in Australia given sufficient resources. Rather our doubts have always been over the second and third assertions of the Implementation Study – that such a network can be financially viable, and deliver affordable prices to consumers. Neither the evidence presented to the Joint Committee nor the broader picture of the progress of the rollout visible from the activities and public announcements of NBN Co have provided much comfort on either front.

Therefore it is of particular concern that of the three policy goals noted by the Committee, the affordability of broadband services and internet access has not been materially addressed. The Coalition believes affordability should be one of the most important policy goals given that price is the biggest barrier to internet uptake in Australia. Australia's lowest income households are eight times more likely to have no internet connection at home than the highest income households.³

Likewise, it is of considerable concern to Coalition members of the Committee that NBN Co is seeking the power to reverse two decades of falling telecommunications and internet prices. In a recent discussion paper on its

1 An amendment passed by the Greens ensured the NBN is subject to the FOI Act with a targeted exemption to protect the confidentiality of its commercial activities. See revised Explanatory Memorandum, National Broadband Network Companies Bill 2010 and Telecommunications Legislation Amendment (National Broadband Network Measures – Access Arrangements) Bill 2010, p. 15. House of Representatives Hansard, 1 March 2011, pp1915-1917.

2 Australian Government, (2011), Budget Paper Number 1, p.7-11.

3 Telecommunications Legislation Amendment (National Broadband Network Measures – Access Arrangements) Bill 2010, p. 15. House of Representatives Hansard, 1 March 2011, pp1915-1917.

forthcoming Special Access Undertaking to the ACCC, the NBN Co has applied for the right to increase prices on most services – excluding basic ADSL-speed equivalents – by up to CPI plus five per cent per year.⁴ In comparison, the price of access to Telstra’s copper access network has fallen by 7 per cent each year in real terms since 2000. And figures compiled by the OECD show that between 2005 and 2010 the price of ADSL broadband in Australia fell by 69 per cent in nominal dollars.

In this context it should be stated again that the Government has repeatedly refused to undertake a cost benefit analysis of the NBN. Such an exercise would have involved a rigorous appraisal of the direct and indirect economic benefits from the project, and weighted these against the direct and indirect costs – with the former largely arising from the cost of its construction, and the latter reflecting less obvious costs such as those arising from diminished competition or from closing off the possibility of alternative technology upgrade paths.

As Mr Michael Wood, Deputy Chairman, Productivity Commission observed in evidence before the Committee:

“As a general principle we continue to believe that cost benefit analysis is a useful tool. We also make the point that you do not actually rely exclusively on the numbers that a cost benefit analysis will produce because it is the product of many assumptions. As long as it is a transparent process of identifying the various costs and benefits and it is transparent as to the assumptions that you have made – and there are very many complex assumptions to be made in these things; they are not simple, but they are an instructive methodology – then that is a useful contributor to decision making.”⁵

It should also be underscored at the outset that the direct fiscal cost of the NBN project to the Budget is far from transparent to taxpayers. Indeed, the Government equity injection appears to be explicitly structured to hide the inherent risk of the NBN project from taxpayers and investors in other telecommunications companies, in breach of the competitive neutrality principles supported by both Labor and Coalition governments until recently.

The 2011-12 Commonwealth Budget Paper note:

“In 2011-12, it is expected that \$2.7 billion of the Government’s equity investment in the National Broadband Network will be financed by AIBs, through wholesale issuance of CGS as part of the AOFM’s overall debt program. AIBs will not be separately

4 NBN Co, (2011), *“Introducing NBN’s Special Access Undertaking”*, p.23.

5 Mr Michael Wood, Deputy Chairman, Productivity Commission, Transcript of Evidence, Canberra, 17 July 2011.

identifiable from CGS, but will be reported as AIBs in the Budget statements. In addition, from 1 July 2011 the AOFM's weekly CGS tender notices will indicate that some of the proceeds of tenders may be used to finance the Government's investment in NBN Co".⁶

Rollout Delays

It should be noted that the roll-out of early release sites has already encountered significant delays.

In a press release dated 8 July 2010 Senator Stephen Conroy stated:

"Construction in the second release locations is scheduled for the second quarter of 2011."⁷ However, Senator Stephen Conroy released a subsequent release dated 3 August 2011 noting that construction would begin in nine of the 19 release sites in staggered stages, with some sites up to six months behind schedule.⁸

In addition, some of the release sites have been arbitrarily moved from seats won at the 2010 election by the Coalition into seats held by Labor, such as Aspley in northern Brisbane.

Construction on nine of the second release sites was contingent on a construction contract signed with Silcar, covering only NSW, Queensland and the ACT. There has been no construction contract signed for second release sites in the other states – Western Australia, South Australia and Victoria. The Minister still has not announced when construction will begin on 10 of the second release sites.

Construction on the second release sites in Tasmania was supposed to begin in December. In March, Senator Stephen Conroy said construction on second release sites would begin in "less than two months".⁹ Recently, the NBN Co announced construction would be staggered for the second release sites, beginning in Triabunna and Sorrell in late May and not getting to South Hobart until early October, 10 months behind schedule.¹⁰

It should be stressed that the delays the NBN Co is experiencing have not been confined to so-called Brownfield fibre rollouts (in areas that are already built up),

6 Budget Paper Number One, (2011), p.7-15.

7 DBCDE, (2011)

8 DBCDE, (2011)

9 *Hobart Mercury*, (2011), "Concerns over NBN Stage"

10 NBN Co, (2011)

which are the most complex deployment environments it faces. The rollout in so-called Greenfield areas (where fibre is laid at the same time as new residential and commercial buildings are constructed) is also well behind schedule. The NBN Co 2011-2013 corporate plan notes on p.15 that the organization was scheduled to have passed 45,000 Greenfields premises under build-operate-transfer (BOT) contracts with private companies by mid-2011. Because of Government policy shifts, the NBN is no longer contemplating BOT contracts with private companies and has therefore not met its deployment target in Greenfields areas, despite the NBN Co Corporate Plan stating:

“NBN Co intends to contract with third parties chosen through a procurement process to deliver FTTP solutions in all Broadacre developments and Infill developments involving more than 100 premises. NBN Co will be able to generate revenue from these Build-Operate-Transfer (BOT) networks as soon as the transfer payment is made and will count them as ‘BOT’ activations.”¹¹

There is also considerable doubt as to the NBN’s organizational capability to meet requests for installation of FTTH facilities in Greenfields areas. It was projected to have passed 127,000 Greenfields premises by June 2012. However, NBN Co CEO Mike Quigley told the Committee the NBN Co would be able to pass only 43 per cent of orders placed by developers:

“Since 1 January this year, we have had approximately 1,800 development applications, representing close to 150,000 lots or premises. On the latest projections we have, we plan to pass approximately 65,000 lots and connect approximately 40,000 premises during the coming fiscal year in Greenfields.”¹²

Confidentiality and Accountability

From the outset, the NBN Co has claimed a broad right to confidentiality, despite the fact that it is entirely financed with taxpayers’ funds and has effectively been granted a statutory monopoly over fixed line local access networks by the Government.

NBN Co CEO Mike Quigley has asserted that the Joint Committee has limited rights to scrutinise commercial deals signed by the NBN Co because they involved external counterparties. In evidence to the Committee Mr Quigley’s description of some of these deals provided only the most cursory rationale for this secrecy:¹³

11 NBN Co, (2010), Corporate Plan, p.46.

12 Mr Mike Quigley, NBN Co CEO, Transcript of Evidence, Canberra, 5 July 2011, p.3.

13 Mr Mike Quigley, NBN Co CEO, Transcript of Evidence, Canberra, 5 July 2011, p.16.

Mr Quigley: I can tell you now. For example, one is a migration. The other is a de-commission. One is for two types of technology. The other is for one type of technology. There is a whole bunch of commercial commissions, some of which I am not prepared to reveal because they are commercial deals with two external companies. But I can assure the committee that the company took a great deal of time and care in making sure that we protected taxpayers' funds in these deals.

Mr FLETCHER: And that assurance would carry a great deal more weight if you would give us the specific figures and the rationale for any difference in the figures.

Mr Quigley: I cannot give you the specific figures, because they are confidential. But what I can assure you is that there have been independent reviews – as you probably know – of the deals commissioned by the government.

CHAIR: Will they remain confidential?

Mr Quigley: In that case, I think yes. Some specific figures will probably remain confidential.

While appreciating that some matters are genuinely commercially sensitive, the Coalition members of the Committee do not see why a commercial contract should receive automatic and blanket protection from Parliamentary scrutiny simply because it involves a private sector counterparty.

The NBN Co has also claimed broad immunity from Government procurement standards. Mr Quigley told the committee:¹⁴

Mr Quigley: First of all, if I could clarify the premise of your question. As a government business enterprise we are not subject to those Commonwealth procurement requirements.

The Coalition members are concerned over NBN Co's disregard of Commonwealth procurement requirements, particularly in regard to the April 2011 suspension of the tender process for construction contracts and subsequent decision to enter exclusive negotiations with a single party.

In this light it is notable that the NBN Co's own corporate plan states:¹⁵

“NBN Co's procurement strategy was approved by the Board in December 2009 and is anchored on proven principles. These principles serve two purposes. Firstly, to guide the detailed activities of NBN Co and focus on the correct outcomes. Secondly,

14 *Ibid*

15 NBN Co,(2010), Corporate Plan, p.57

to demonstrate alignment to the essential probity, transparency and value requirements articulated by the Department of Finance and the Australian National Audit Office (ANAO)."

NBN's Divergence from Government's Statement of Expectations

Given that the NBN Co is operating at arm's length from the Government – a point Senator Conroy has been repeatedly willing to emphasise – it is of particular concern that the NBN has failed to comply with the Government's Statement of Expectations in several important areas.

In a press release dated 17 December 2010, the Government's Shareholder Ministers stated: "That NBN Co will be the wholesale provider of last resort for fibre connections in new developments."¹⁶ But subsequent changes to Government policy and the NBN's business model have meant that NBN Co itself will cover most of the upfront cost of rolling out fibre in most Greenfields sites – meaning the NBN Co will be the fibre provider of first resort, the exact reverse of the Government's original expectations.

The head of the Greenfields Operators of Australia, Mr Michael Sparksman, described this situation in evidence to the Committee:¹⁷

Mr TURNBULL: At the moment, a developer has the option of either waiting for the NBN to install fibre at no cost to the developer other than providing the infrastructure – the passive pipes, pits and so forth – or paying one of your members to do it. Correct?

Mr Sparksman: That is correct.

Mr TURNBULL: So that basically puts your members in quite an uncompetitive position, doesn't it?

Mr Sparksman: It does.

Mr TURNBULL: Does it put you out of business?

Mr Sparksman: It does, yes.

Mr TURNBULL: So it is not a fine issue of competitive neutrality. It seems you are just run out of town, basically, by the government dollar, aren't you?

16 DBCDE, (2010)

17 Mr Michael Sparksman, Chairman, Greenfield Operators of Australia, transcript of evidence, 16 May 2011.

Mr Sparksman: That is correct.

The Statement of Expectations also stated that keeping the cost of services down should be a key policy objective of the NBN: "The Government's objectives include delivering significant broadband improvements to all Australians and affordable access to these services is essential."¹⁸

However, the Committee notes that in NBN Co's discussion paper of July 2011 on its Special Access Undertaking expected to be submitted to the ACCC by the end of 2011, the NBN Co has proposed that only one of its services be subject to below-inflation price controls during the first 15-20 years of the NBN's operation. The organization indicated it will seek the ACCC's permission to be able to raise the prices of the remainder of its services – including any consumer service offering higher-speed downloads than are feasible with today's peak ADSL speeds, any services designed for business customers, and any services related to multicasting or video streaming – by significantly more than the inflation rate between now and 2041:¹⁹

"All NBN Co products (i.e. both price controlled and non-price controlled products) would be individually subject to a price shock mechanism that restricts annual price changes of any individual product to no greater than CPI+5%. Prices would, in addition, be subject to any validity periods specified in the WBA."

As noted earlier, the NBN Co's attempt to lock in up to thirty years of real price rises for the communications and entertainment services to be carried over its networks is a remarkable turnaround from the large real price falls for most such services in Australia and other OECD countries which embraced increased competition and deregulation of the communications sector over the past two decades. Between 1997-98 and 2008-09 inflation-adjusted prices fell 34 per cent for fixed-line telephone services and 49 per cent for mobile services, according to the ACCC.

In fact the trend towards lower real prices goes back even further, to well before market liberalization: Between 1980 and 2011, the ABS index of telecommunications services fell by approximately 55 per cent in real terms.²⁰

18 DBCDE, (2010), "Statement of Expectations".

19 NBN Co, (2011), "Introducing NBN's Special Access Undertaking", p.23.

20 ACCC (2010) "Changes in the prices paid for telecommunications services in Australia 2008-2009," p.101 Canberra 2010.

NBN Co Commercial Arrangements with Telstra and Optus

From the outset, one obvious danger in creating a large and vastly over-capitalised taxpayer-funded local access carrier was that its need to seek a return on capital would lead to it (and its owner, the Commonwealth) artificially stifling competition from existing or prospective rival networks or technologies. This is precisely what has come to pass, much more quickly than anyone anticipated and in direct conflict with the Government's claims in April 2009 (when it was at least contemplated that existing infrastructure capable of delivering super-fast broadband would remain as a competitive check on NBN Co and not be wastefully decommissioned).

The Coalition members of the Committee point out that NBN Co's agreements with both Telstra and Optus to legislatively and contractually prohibit the provision of broadband services over their respective Hybrid Fibre Coaxial (HFC) pay TV networks was neither recommended nor foreshadowed either in the NBN Implementation Study (April 2010) or the NBN Corporate Plan (December 2010).

The McKinsey/KPMG Implementation Study made the following statements about the HFC networks:

"NBN Co, as a monopoly after completion of the roll-out and if the copper and HFC network are deactivated will lack the competitive pressure to optimise its operations. This could lead to several adverse outcomes for the industry including:

- ⇒ Higher prices charged to operators ...
- ⇒ Poor quality of services ..."²¹

The NBN Co 2011-2013 Corporate Plan makes no mention of a competition-stifling agreement deal with Optus, although such an arrangement was already presumably under negotiation at the time it was published. In regard to NBN Co's commercial arrangement with Telstra, the Plan states:

"In a fully competitive scenario (i.e. assuming no deal with Telstra, see Sub-Section 3.1.1, *Telstra Definitive Agreements*) it is likely that one of the existing HFC networks will be upgraded at least to encompass node splitting, thus being able to offer speeds of over 200Mbps to over 2 million premises but with substantially lower performance than GPON (lower upstream speeds and higher contention ratios)."²²

21 McKinsey (2010), "Implementation study", p.444.

22 NBN Co, (2010), Corporate Plan, p.43.

NBN Co has maintained it required broad legal and political protection from any independent scrutiny of the agreements it has entered into. For instance, asked for a breakdown of the per user cost of the respective Optus and Telstra contracts, NBN Co CEO Mike Quigley stated:

“I am not at liberty to divulge that information. It is commercially sensitive information from either Telstra or Optus.”²³

It is clear the main purpose of the deals is to prevent facilities-based competition and protect the economics of the NBN project. In a letter to the ACCC dated 22 August 2011, NBN Co CEO Mike Quigley and DBCDE Secretary Peter Harris stated:

“The HFC network clearly offers the ability to ‘cherry pick’ high value customers thereby potentially inhibiting NBN Co’s ability to cross subsidise to deliver national wholesale pricing. The Parliament has recently authorised NBN Co to engage in conduct that is reasonably necessary to achieve uniform national wholesale pricing. Decommissioning of the HFC network would further support the achievement of this objective.”²⁴

In regard to the deal with Optus, Treasurer Wayne Swan and Communications Minister Conroy have explicitly conceded that it was designed to boost NBN Co’s revenue and take up:

“The Optus agreement to migrate its HFC customers to the NBN and to decommission its HFC network will provide greater certainty about NBN Co’s revenue, and will further increase the take-up of NBN services.”²⁵

NBN Prices

It is of the deepest concern to Coalition members of the Committee that neither the Government nor NBN Co have shown the slightest interest in the affordability (and hence uptake) of broadband services being a key performance indicators and policy objective as a key policy goal of the project.

On the contrary, given the contradiction between the Government’s determination to choose the most expensive possible upgrade path for Australian fixed line communications, and the Government’s insistence that the project will earn a (barely) commercial return (as opposed to being a heavily subsidised Government

23 Mr Mike Quigley, NBN Co CEO, Transcript of Evidence, Canberra, 5 July 2011, p.15.

24 DBCDE, (2011), “Cover Letter to the ACCC”.

25 Stephen Conroy and Wayne Swan, (2011), “NBN Rollout to Benefit from Deal with Optus”, 23 June 2011.

service like education or health), the only possible outcome is higher prices and the necessary elimination of all fixed line competition to enable them.

In publishing the NBN Co Corporate Plan, the NBN Co set itself a number of ambitious goals which will be detrimental to consumers. RBS investment analyst Mr Ian Martin notes:

“Wholesale revenue forecasts in NBN Co’s Corporate Plan 2011 – 2013 are based on two options, Option A (1) and Option A (2), respectively forming upper and lower boundaries of the corporate plan’s scenario range. The two revenue scenario options are not greatly different over the three year corporate planning period, with the first option modelling a blended average revenue per activated line (ARPU) of \$34 per month by the end of the three year corporate plan (FY2013) and the lower bound ARPU of \$33 per month. These would help generate revenue of \$154m to \$160m from 566,000 connections in FY13 (or \$224-231m annualised). These ‘prices’ are more than three times higher than the current blended price paid by broadband access seekers for access to copper. Although there are some important differences in the access product offered on copper compared with the proposed fibre access product of NBN Co it highlights the question of ability to pay.”²⁶

The pricing regime of the NBN Co also contrasts with the experience of carriers elsewhere in the world. For instance there has been a decline in the number of Korea Telecom’s subscribers to 100 megabits per second broadband in Korea, where there is a price premium of only 3,000 Won (\$A2.62) to move from the 10mbps plans.²⁷

Early NBN prices published by Retail Service Providers (RSPs) indicate that while prices for basic ADSL2 equivalent packages are roughly in line (or slightly above) plans currently available, the RSPs have factored in significant price premiums to upgrade to faster speeds. For instance, Internode are charging a \$40 premium to move from a 12/1mgbps package to a 100/40mbps contract with the same bitcap.²⁸

The Coalition also views with considerable alarm the NBN’s special access undertaking lodged with the ACCC, which proposes yearly price rises of up to

26 Martin, I, (2011), “A Significant Gap in the NBN Corporate Plan,” in the *Telecommunications Journal of Australia*, Vol 61 No 3, p51.3.

27 For more information see Turnbull, M., (2011), “Korea Broadband: An Overview and Implications for Australia”.

28 Internode, (2011), “NBN Fibre to the Home”.

CPI+5% on all products except basic ADSL2-equivalent packages for a period of thirty years.²⁹

Although it is hard to find an apples-to-apples comparison, it is worth noting that OECD figures show ADSL retail prices in Australia fell by 69 per cent between 2005-2010.³⁰

Hon Malcolm Turnbull MP
Member for Wentworth

on behalf of the Coalition Members of the Joint Committee
on the National Broadband Network

29 NBN Co, (2011), "Introducing NBN's Special Access Undertaking", p.23, available online [here](#).

30 OECD, (2011), *Communications Outlook*, p.293.



Appendix A – Submissions and Exhibits

Submissions

1. Australia On Line
2. NBN Co Limited
- 2.1 NBN Co Limited
3. Department of Broadband, Communications and the Digital Economy
- 3.1 Department of Broadband, Communications and the Digital Economy
4. Post Office Agents Association Limited
- 4.1 Post Office Agents Association Limited
5. Broken Hill City Council
6. Mr Dan O'Halloran
7. Mr Michael Wilson
8. Regional Development Australia Far West NSW
9. Mr Jason King
10. Mr Andrew Chapman
11. Tibooburra Village Committee
12. Mr Steve McDermott
13. Edgnett Regional Computer Services
14. Maari Ma Health Aboriginal Corporation
15. Capgemini Australia
- 15.1 Capgemini Australia

16. Ninti One Limited
17. Royal Flying Doctor Service

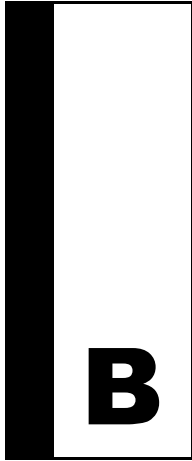
Exhibits

1. Department of Broadband, Communications and the Digital Economy
Submarine Cable Map, 2011
2. Department of Broadband, Communications and the Digital Economy
Regional Backbone Blackspots Program Maps:
 - (1) Darwin, Emerald and Longreach
 - (2) Broken Hill
 - (3) Victor Harbour
 - (4) South West Gippsland
 - (5) Geraldton
 - (6) All Routes

Fact Sheets:

- (1) Regional Backbone Blackspots Program – fast facts
 - (2) FAQs
 - (3) Indicative Route Details
3. M&S Consultants
NBN Co Limited Traffic Classes, excerpts from the NBN Co *Corporate Plan 2011-2013*, dated 2011
4. Regional Development Australia Far West
Submission from the Central Darling Shire Council to the House Standing Committee on Infrastructure and Communications Inquiry into the role and potential of the National Broadband Network, 27 July 2011

iStreet dLux Lab 2011, Broken Hill Art Exchange, Compact Disc, 27 July 2011
Development Update: Far West Region NSW, statistical information, August 2010.
5. Royal Flying Doctor Service
Royal Flying Doctor Service Annual Report 2009-10
Map – NBN Co Limited New South Wales
Photographs



Appendix B – Hearings and Witnesses

Monday, 16 May 2011 - Sydney

Australian Competition and Consumer Commission

Mr Mark Pearson, Deputy Chief Executive Officer of Regulation
Mr Michael Cosgrave, Group General Manager, Communications Group
Mr Richard Home, General Manager, NBN Engagement and Group
Coordination
Mr Rob Nicholls, General Manager, Convergence and Mobility Branch

Department of Broadband, Communications and the Digital Economy

Mr Peter Harris, Secretary
Mr Philip Mason, Assistant Secretary, NBN Implementation Division

NBN Co Limited

Mr Mike Quigley, Chief Executive Officer

Telstra

Mr James Shaw, Director, Government Relations
Ms Yolanda Chorazyczewski, Group Manager, Regulatory Social Policy

Tuesday, 5 July 2011 – Canberra

NBN Co Limited

Mr Mike Quigley, Chief Executive Officer

Department of Broadband, Communications and the Digital Economy

Mr Daryl Quinlivan, Deputy Secretary

Wednesday, 27 July 2011 – Broken Hill

Central Darling Shire Council

Mr Paul Brown, Mayor

Far West Health Local Health District Board

Dr Stephen Flecknoe-Brown, Chairman

Ms Sharyn Cowie, Manager, Telehealth, and Acting Manager, Electronic Medical Record Support Team

Maari Ma Health Aboriginal Corporation

Ms Cathy Dyer, Director, Corporate Services

Mr Michael Hanley, Manager, Information Technology

Ninti One Ltd

Ms Jan Ferguson, Managing Director, Cooperative Research Centre for Remote Economic Participation

Ms Apolline Kohen, Senior Research Officer

Perilya Broken Hill Limited

Mr Lance Duggan, Commercial Services Manager

Royal Flying Doctor Service of Australia

Adjunct Professor Clyde Thomson, Director, South-East Section

Dr Michael Hill, Senior Medical Officer

Mr Gary Oldman, Information Technology Manager

University of Sydney

Associate Professor David Perkins, Director, Research, Broken Hill University,
Department of Rural Health

Regional Development Australia Far West New South Wales Inc.

Mrs Linda Nadge, Executive Officer
Councillor Darriea Turley, Acting Chair

Broken Hill City Council

Mr Frank Zaknich, General Manager

M & S Consultants Pty Ltd

Mr Michael Wilson, Director

Individuals

Mr Hugh Gough
Mr Gary Looney

Thursday, 28 July 2011 – Melbourne

Australia On Line Pty Ltd

Mr Michael Bethune, Chief Executive Officer

Post Office Agents Association Limited

Mr Ian Kerr, Chief Executive Officer

Capgemini Australia

Mrs Shelley Oldham, Vice President, Head of Public Sector

C

Appendix C – Correspondence to Senator Xenophon



PRIME MINISTER
PARLIAMENT HOUSE
CANBERRA ACT 2600

Senator Nick Xenophon
Senator for South Australia
Parliament House
CANBERRA ACT 2600

23 NOV 2010

Nick
Dear ~~Senator~~ Xenophon

I am writing after our discussions yesterday to confirm the package of measures we have agreed with you to facilitate the passage through the Parliament of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010.

First, the Government agrees that there is a valuable and ongoing role for parliamentary committees to properly scrutinise the implementation of policies. With this in mind and in the interests of accountability and transparency, the Government will move to establish a Joint Committee on the National Broadband Network (JCNBN) to provide progress reports every 6 months to the Parliament until the completion of the project. The composition of this Committee will mirror the Joint Committee of Public Accounts and Audit. The JCNBN will report on rollout progress, report against the final business plan, assess risk management processes and look at other matters the Committee determines are relevant to its deliberations. The Committee will commence its work from 1 July 2011 and will draw on any relevant material from the Standing Committee on Infrastructure and Communications which is due to report back by August 2011. The Committee would be able to call witnesses including MP's and Senators about the performance of the NBN or other matters of local interest.

Second, I can confirm that government agencies and officials including the Australian Competition and Consumer Commission, the Productivity Commission, the Australian Communications and Media Authority as well as NBN Co will, if required, be able to appear before or contribute advice to the JCNBN. The scope of this advice will be consistent with the purposes of the JCNBN as outlined in the second paragraph above, namely to consider the rollout and implementation of the NBN. The Government will be writing to the Productivity Commission and the Australian Consumer and Competition Commission to advise these arrangements.

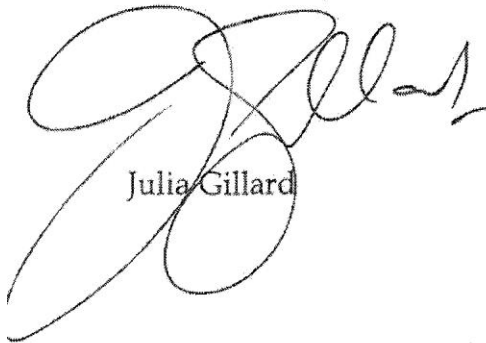
Third, NBN Co has provided additional information to build on the five points raised in Mr Quigley's letter dated 19 November 2010 regarding the NBN Co

business plan. The information attached, provided by NBN Co, takes account of commercial sensitivities and other sensitivities relating to NBN Co. I understand that Mr Quigley has agreed to brief you shortly.

Finally, there are a number of amendments to the Bill that we discussed yesterday that I am prepared to consider that go to transparency and looking after the interests of consumers. I have asked Senator Conroy to agree wording with you.

The Government regards the NBN Co as a signature economic reform and this Bill, involving the structural separation of Telstra, as a key plank in its microeconomic reform agenda. Passage of the legislation this week is crucial to finalising the Agreement between Telstra and NBN Co and therefore providing Telstra shareholders with certainty. The Government is focused on ensuring the NBN Co is delivered in an efficient and cost-effective manner. I regard the above package of measures as a substantial contribution to ensuring public accountability on this important nation-building project and I trust I have your support in securing the passage of this Bill.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Julia Gillard', written in a cursive style. The signature is positioned above the printed name 'Julia Gillard'.

Julia Gillard

D

Appendix D – Correspondence on National Broadband Network Data



SENATOR THE HON PENNY WONG
Minister for Finance and Deregulation

SENATOR THE HON STEPHEN CONROY
Minister for Broadband, Communications and
the Digital Economy

Mr Rob Oakeshott MP
Chair
Joint Committee on the National Broadband Network
Parliament of Australia
Parliament House
CANBERRA ACT 2600

07 JUL 2011

Dear Mr ^{Rob}Oakeshott

We are writing in our capacity as Shareholder Ministers for NBN Co Limited (NBN Co) regarding the reporting arrangements for the Joint Committee on the National Broadband Network (the Committee).

As you are aware, the Government has undertaken to provide the Committee with an update on the status of the National Broadband Network rollout based on information provided by NBN Co. We note that this will help enable the committee to table its six monthly reports on progress of the roll of the NBN.

NBN Co, in conjunction with the Government, is finalising an appropriate reporting framework including key performance indicators on NBN Co's activities which can be used as the basis for reports to both the Government and to your Committee.

For the first report, there are practical challenges to providing the Committee with appropriate material before mid September. It is important to ensure that there is time for NBN Co management to prepare a report of satisfactory quality, for the NBN Co Board to perform appropriate due diligence in reviewing the content of the report, and for initial Government consideration of the report.

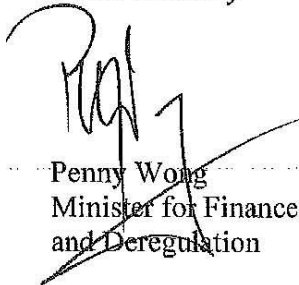
This timing would also ensure that the Government is able to provide the Committee with relevant information surrounding recent developments as part of its first report.

We are conscious of the importance of providing the Committee with quality information to inform its deliberations, and we are not confident that we could do so on an earlier timeframe, at least for this initial report.

If the Committee is in agreement, the Government will undertake to provide the Committee with a report, based on the most recent NBN Co information, by mid-September 2011.

We look forward to your response and welcome the continued interest in this important infrastructure project.

Yours sincerely



Penny Wong
Minister for Finance
and Deregulation



Stephen Conroy
Minister for Broadband,
Communications and the
Digital Economy